

Birla Central Library

PILANI (Jaipur State)

Class No. 349.37

Book No. S838 R V.3

Accession No. 14498

ROMAN LAW IN THE MODERN WORLD

BY

CHARLES PHINEAS SHERMAN, D.C.L., LL.D.

Of the Faculty of Law, Boston University; Lecturer in Roman, Canon and Civil Law, College of William and Mary in Virginia; ex-Acting Professor of Roman Law in Yale University; ex-Librarian of the Yale Law School Library, and ex-Curator of the Yale Wheeler Collection of Roman, Canon, Continental-European, and Latin-American Law; ex-Professor of Canon and Modern Church Law in National University, Washington, D. C.; ex-Special Lecturer in Georgetown University Law School, Washington, D. C., and in Washington and Lee University Law School, Lexington, Va.; ex-Instructor in French and Spanish Law, Yale University; ex-Instructor in Hellenic or Greek Law, National University; ex-Instructor Designate in the University of Texas; a Founder and the First Professorial Editor-in-chief of the Boston University Law Review; Author of Maritime Law of Rome, of the English translation of Bernard's First Year of Roman Law, Epitome of Roman Law, of Roman Military Law (in John H. Wigmore Celebration Legal Essays, Chicago, 1919), of Roman Administrative Marine (in Studi in Onore Salvatore Riccobono, vol. ii, Palermo, 1932), and of Roman Law in the U. S. A. (in Atti del Congresso Internazionale di Diritto Romano, vol. ii, Bologna-Roma, 1933); Member of the Selden Society at London, of the Classical Society at London, of the Society for the Promotion of Roman Studies at London, of the British School at Rome, and of the Stair Society at Edinburgh; Member of the Bar of the State of Connecticut, of the State of Massachusetts, and of the United States Supreme Court.

Third Edition

VOL. III

**SUBJECT-GUIDES TO THE TEXTS OF ROMAN LAW, TO THE
MODERN CODES AND LEGAL LITERATURE;
INDEX TO VOLS. I-III**

**NEW YORK,
BAKER, VOORHIS & CO.,**

1937

First Edition, 1917

Second Edition, 1922

Third Edition, 1937

4498

COPYRIGHT, 1937
BY CHARLES P. SHERMAN

Entered at Stationers' Hall, London
~~International~~ Copyright Secured
All Rights Reserved

349.37

S838R

V.3

14498

U157

Press of The Tuttle, Morehouse & Taylor Co., New Haven, Conn., U. S. A.

[Charles P. Sherman is copyright proprietor of First and Second Editions of Roman Law in the Modern World, published and copyrighted in 1917 and 1922.]

LIST OF PRINCIPAL ABBREVIATIONS USED IN ROMAN LAW TREATISES

B., Bas. = Basilica of Leo VI.

C.; Cod.; Code = Code of Justinian. (Code, 8, 10, 6 is 8th book, 10th title, 6th law or constitution.)

C. Th.; Cod. Theod. = Code of Theodosius. (It is cited like the Code of Justinian.)

Collatio = Mosaicarum et Romanarum legum collatio.

Const. = Constitution; sometimes referring also to a prefatory constitution of the Code or Digest, e.g. Const. "Omnem."

D.; Dig.; Digest; P. = Digest or Pandects of Justinian. (Dig. 17, 1, 25 pr. is 17th book, 1st title, 25th fragment, principium or first paragraph.)

Frag. Vat. = Vatican Fragments.

G.; Gaius = Institutes of Gaius. (Gaius, 2, 1, is 2d book, 1st section.)

I.; Inst.; J. = Institutes of Justinian. (Inst. 2, 6, 10, is 2d book, 6th title, 10th section.)

l. = Constitution, law or fragment.

L. = Book. (Unless it is the numeral "50".)

N.; Nov.; Novel = Novels of Justinian. (Nov. 18, 3 is 18th novel, 3d chapter.)

Paul. Sent.; Sent. P. = Sententiae of Julius Paulus.

Pr.; pr. = Principium, the first paragraph and preliminary section of the Institutes, or of a fragment of a title of the Digest, or of a constitution or law of the Code.

SC. = Senatusconsultum or decree of the Senate.

Theophilus; Theoph. Inst. = Paraphrase of the Institutes of Justinian by Theophilus.

Ulpian Reg.; Reg. = Regulae of Domitius Ulpian.

XII Tab.; XII Tables = Law of the XII Tables.

§ = Section.

The latest modern Civilians or Romanists, including the author, cite the *Corpus Juris Civilis* from the stereotyped edition of Krueger, Mommsen, Schoell, and Kroll; and the Code of Theodosius from Mommsen's edition.

CONTENTS OF VOLUME III

PART I SUBJECT-GUIDES

CHAPTER I

SUBJECT-GUIDE TO VOL. I:

LISTS OF THE PERTINENT TEXTS OF ROMAN LAW; REFERENCES TO THE MODERN CODES AND TRANSLATIONS THERE-OF, ALSO TO PERTINENT MODERN LEGAL LITERATURE

	Section		Section
Value of Roman law: refer- ences	941	Roman law schools and legal education: references ...	954
Value of legal history: refer- ences	942	Post-Justinian Roman law: references	955
Ante-Roman sources of law: references	943	Roman law of the Later Em- pire: references	956
Roman law of the Monarchy: references	944	Abyssinia: references	957
Roman law of the Republic: references	945	Mohammedan countries: ref- erences	958
Praetorian and other Edicts: references	946	Malta: references	959
Greek philosophy, particu- larly Stoicism: references .	947	Balkan States: references ..	960
Jus respondendi and jurists of the Early Empire: refer- ences	948	Russia: references	961
Roman law of the Early Empire: references	949	Italy: references	962
Influence of Roman law on Christianity: references...	950	Canon Law: references	963
Ante-Justinian codes and collections: references	951	Austria, Hungary, Czechoslav. France: references	964
Justinian Roman law: refer- ences	952	French law parts of the British Empire: references	966
Influence of Christianity on Roman law: references...	953	French law parts of the United States: references .	967
		Belgium: references	968
		Holland: references	969
		Roman-Dutch law parts of the British Empire: refer- ences	970
		International law: references	971

	Section		Section
The Scandinavian countries:		Japan: references	978
references	972	Germany: references	979
Portugal: references	973	Switzerland: references	980
Brazil: references	974	Scotland: references	981
Spain: references	975	England, English law parts	
Spanish America: references .	976	of the British Empire, and	
Spanish law parts of the		the United States: refer-	
United States: references .	977	ences	982

CHAPTER II

SUBJECT-GUIDE TO VOL. II:

LISTS OF THE PERTINENT TEXTS OF ROMAN LAW AND OF THE
PRINCIPAL MODERN CODES; REFERENCES TO PERTINENT
MODERN LEGAL LITERATURE

	Section		Section
Periods, terms, and general principles of Roman Law:		The paternal power (<i>patria</i>	
references	983	<i>potestas</i>): references	992
Freedom and slavery: refer-		Guardianship (<i>tutela</i> and	
ences	984	<i>curatio</i>): references	993
Citizenship: references	985	Artificial persons, particu-	
Emancipation, majority,		larly private corporations:	
<i>venia aetatis</i> , and in		references	994
<i>integrum restitutio</i> :		Things, ownership, and pos-	
references	986	session: references	995
Birth, natural death, civil		Personal, praedial, and prae-	
death, <i>infamia</i> or <i>existi-</i>		torian servitudes: refer-	
<i>tionis minutio</i> , proof of		ences	996
life and death: references . .	987	Occupancy, accession, deliv-	
Betrothal, relationship (<i>agna-</i>		ery, and adjudication: refer-	
tion and cognation), affini-		ences	997
ty, marriage, <i>dos</i> , <i>donatio</i>		Prescription: references	998
<i>ante</i> or <i>propter nuptias</i> ,		Gift: references	999
<i>parapherna</i> , second mari-		Inheritance and intestate	
riages, <i>concubinage</i> :		succession: references	1000
references	988	Wills, legacies, trusts (<i>fidei-</i>	
Divorce (<i>repudium</i> and		<i>commissa</i>), and <i>codicils</i> :	
<i>divortium</i>): references	989	references	1001
Legitimation: references	990	Obligations (including form-	
Adoption (<i>adrogatio</i> and		ation, <i>correality</i> , <i>trans-</i>	
<i>adoptio</i>): references	991	missibility, performance,	
		tender, release, rescission,	

CONTENTS OF VOLUME III

vii

	Section		Section
loss of thing due, novation, submission to arbitration, set-off, con- fusion, joinder of issue, extinctive prescription); general principles of con- tracts (including parties, meeting of the minds, form, consideration): refer- ences	1002	Miscellaneous contracts: references	1014
Contracts of loan (nexum, mutuum, maritime loan, and commodatum): refer- ences	1003	Quasi contracts: references ..	1015
Depositum: references	1004	Torts or delicts: references ..	1016
Pledge (pignus, vadium): references	1005	Quasi delicts: references	1017
Exchange: references	1006	Civil procedure: references ..	1018
Stipulation (stipulatio): references	1007	The Roman judicial organ- ization (including the courts, holidays, bar, and notaries): references	1019
Suretyship: references	1008	Public law in general: refer- ences	1020
Literal contracts (expensi- lacio, chirographum, syngrapha, cautio): refer- ences	1009	Constitutional and admin- istrative law (including the Roman civil service): ref- erences	1021
Sale: references	1010	Municipal corporations: ref- erences	1022
Letting and hiring: references	1011	Criminal law: references	1023
Partnership: references ...	1012	Financial law (including the treasury department or fiscus of the State, revenues and expenditures of the State, coinage, taxation, public and Imperial do- mains, mines, public games trade, commerce, annona, education): references	1024
Agency: references	1013	Military law: references	1025
		Ecclesiastical law: references	1026

PART II

BIBLIOGRAPHY OF ROMAN LAW

	Section
List of Roman law treatises; books containing texts of Roman law	1027

PART III

INDEX TO VOLS. I-III

	Section
Index	1028

PART I

SUBJECT-GUIDES

PART I

SUBJECT-GUIDES

CHAPTER I

SUBJECT-GUIDE TO VOL. I:

LISTS OF THE PERTINENT TEXTS OF ROMAN LAW; REFERENCES TO THE MODERN CODES AND TRANSLATIONS THEREOF, ALSO TO PERTINENT MODERN LEGAL LITERATURE

Value of Roman law: references.

§ 941

- AUSTIN, Jurisprudence³, vol. ii, pp. 1114-17. GIBBON, Decline and fall of the Roman Empire, vol. iv, ch. 44.
- BRYCE, Inaugural lecture, "The academical study of the Civil Law" (Studies in history, etc., pp. 860-86). HADLEY (Notice of his lectures, 1875), 12 Albany Law Journ., p. 176.
- Valedictory lecture, "Legal studies in the University of Oxford" (Studies in history, etc., pp. 887-907). HUNTER, Place of Roman law in legal institutions, 4 Law Mag. and Rev., p. 66.
- DICEY, The extension of law teaching at Oxford, 24 Harv. Law Rev., p. 3 (1910). IHERING (VON), Value of Roman law to the modern world, Virginia Law Journ., Aug. 1880.
- EMERY, Roman law: its study, 1 Maine Law Rev. (1908). JONES, The problem of the law school, 1 Calif. Law Rev., p. 9.
- EMMOTT, Legal education in England, 54 Albany Law Journ., p. 181. LEGARÉ, Works, vol. i, p. 506.
- LEFROY, Rome and to-day, 20 Harv. Law Rev., p. 606.

- LEONHARD, The vocation of America for the science of Roman law, 26 Harv. Law Rev., p. 389 (1913).
- LOBINGIER, The value and place of Roman law in the technical curriculum, 1 So. Law Quart., p. 117.
- MAINE, Early history of institutions, Index.
- MARKBY, Codification and legal education, 3 Law Mag. and Rev., p. 259.
- German jurists and the Roman law, 3 Law Mag. and Rev., p. 390.
- MARSHALL, Roman law: its study in England, 26 Law Mag. and Rev., p. 288.
- PINCOFFS, Object and value of the study of Roman law, 15 Am. Law Rev., p. 555.
- RAMSAY, The value of Roman law, 39 Am. Law Reg., p. 280.
- SEE also supra vol. i, §§ 1-7.
- SEMMES, Civil Law and its codification, 9 Am. Bar Ass'n Rep., pp. 212-13 (1886).
- SMITH, Roman law in American law schools, 36 Am. Law Reg., p. 175.
- STUDY of Roman law, 11 Law Quarterly Rev., p. 336.
- of the Civil Law, 24 Am. Law Reg., p. 316.
- WILLIAMS, Legal etymology, 28 Law Mag. and Rev., p. 257.
- WINCHESTER, The study of Roman law, 6 Albany Law Journ., p. 245.

§ 942 Value of legal history: references.

- BRISAUD, Cours d'histoire gén. du droit français, "De l'utilité de l'étude de l'histoire du droit," vol. i, pp. 1-15.
- BRYCE, The methods of legal science (Studies, pp. 607-37).
- The history of legal development at Rome and in England (Studies, pp. 745-81).
- CRACKANTHORPE, The uses of legal history, 12 Law Quart. Rev., p. 337.
- HOLMES, JENKS, WIGMORE, Introductions and preface to "A general survey of . . . Continental Legal History" (Continental Legal Hist. Series, vol. i), pp. xxxiii-liii.
- SEE also supra §§ 1-15.

Ante-Roman sources of law: references.

§ 943

Babylon, Phoenicia, Judaea:—

COOK, *The law of Moses and the Code of Hammurabi*, London, 1903.

CUQ, *Études sur les contrats de l'époque de la première dynastie babylonienne*, Paris, 1910.

GOLDIN, *Mishnah — a digest of the basic principles of early Jewish jurisprudence*, New York, 1913 (translations and a treatise on the law of personal property).

GRIMME, *The law of Hammurabi and Moses* (English translation from the German by Pilster), 1907.

HARPER, *The Code of Hammurabi — about 2250 B.C.* (English translation), Chicago, 1904.

JENKINS, *Code of Hammurabi compared with American law*, 39 *Am. Law Rev.*, p. 330.

JOHNS, *Babylonian law* (3 *Encycl. Britan.*¹¹, pp. 115–21).

— *Assyrian deeds and documents relating to the transfer of property*, 3 vols., Cambridge, 1898.

— *Babylonian and Assyrian laws, contracts and letters*, Edinburgh, 1904.¹

KENT, *Israel's laws and legal precedents*, New York, 1907.

KOHLER and PEISER, *Aus dem babylonisch. Rechtsleben*, Leipzig, 1890 et seq.

KOSCHAKER, *Babylonisch-assyrisches Bürgerschaftsrecht*, Leipzig, 1911.

MAITLAND, *Prologue to a history of English law*, 14 *Law Quart. Rev.*, pp. 13–33.

MEISNER, *Beiträge zum alt-babylonischen Privatrecht*, Leipzig, 1893.

— *Aus dem alt-babylonisch. Recht*, 1905.

— *Assyriologische Studien*, 1904–11.

MORRIS, *Hist. of the development of law*, pp. 52–86, Washington, 1909.

MYRES, *The dawn of history*, pp. 253–4, New York, 1911.

PINCHES, *Some early Babylonian contracts or legal documents* (1897–99).

REVILLOUT, *La créance et le droit commercial dans l'antiquité*, Paris, 1897.

WINCKLER, *Die Gesetze Hammurabis*, Leipzig, 1903.

Egypt:—

GRIFFITH, *Egypt* (9 *Encycl. Britan.*¹¹, p. 46).

— *Wills in ancient Egypt*, 14 *Law Quart. Rev.*, p. 43 (c. 2500 B.C.).

¹ KEETON, *Origins of Babylonian Law*, 41 *Law Quart. Rev.*, 441 (1925).

(§943) REVILLOUT, *Les obligations en droit égyptien* (1886).

— *La propriété, ses démembrements, et la possession en droit égyptien* (1897).

— *Précis du droit égyptien*, 2 vols., Paris, 1903.

— *Les origines égyptiennes du droit civil romain*, Paris, 1912.

Greece:—

ARISTOTLE, *Constitution of Athens* (Kenyon, 2d ed. London, 1891, and 4th ed. Berlin, 1903).

ASHBURNER, *The Rhodian sea law*, Oxford, 1909.

ATHENIAN Trials, 6 *Green Bag*, p. 103.

— *Tribunals*, 7 *Law Quart. Rev.*, p. 109.

BEAUCHET, *Hist. du droit privé de la république athénienne* (1897).

BENEDICT, *The historical position of the Rhodian law*, 18 *Yale Law Journ.*, p. 223 (1909).

BONNER, *Evidence in Athenian courts*, Chicago, 1905.

BÜCHLER and ZITELMANN, *Das Recht von Gortyn*, Frankfurt, 1885 (Greek text and German translation).

BURLE, *Essai historique sur le développement de la no-*

tion de droit dans l'antiquité grecque (1908).

CAVAIGNAC, *Hist. de l'antiquité*, 3 vols., Paris, 1913 (xii, Athens).

COLLINET, *Études historiques sur le droit de Justinien*, ch. ii, Paris, 1912.

DARESTE, *La science du droit en Grèce*, Paris, 1893.

— HAUSSOULIER and REINACH, *Recueil des inscriptions juridiques grecques*, 2 vols., 1891-98.

FRY, *Conveyancing under the Ptolemies*, 8 *Law Quart. Rev.*, p. 56 (c. 255 B.C.).

GILBERT, *Greek constitutional antiquities* (English trans. vol. i, pp. 376-416, London, 1895).

GREEK Law and the modern spirit, 43 *Law Journ.*, p. 633 (Oct. 24, 1908).

HEINECCIUS, *Jurisprudentia Romana et Attica* (1731).

HORTENSIVS, *Satire on Athenian legal methods*, 2 *Green Bag*, p. 358.

KOHLER and ZIEBARTH, *Das Stadtrecht von Gortyn, etc.*, Göttingen, 1912.

LEIST, *Graeco-italische Rechtsgeschichte* (1884).

— *Altarisches jus gentium* (1889).

— *Altarisches jus civile* (1892-96).

- LERMINIER, Hist. des législateurs et des constitutions de la Grèce antique, 2 vols., Paris, 1852.
- LIPSIUS, Von der Bedeutung des griechischen Rechts, Leipzig, 1893.
- MANSON, Cross-examination, etc., 8 Law Quart. Rev., p. 100.
- MITTEIS, Reichsrecht und Volksrecht in den östlichen Provinzen des röm. Kaiserreichs mit Beiträgen zur Kenntniss des griechisch. Rechts, Leipzig, 1891.
- MORRIS, Hist. of the develop. of law, pp. 98-143, Washington, 1909.
- NELSON, Athenian law suits, 12 Green Bag, p. 479.
- PAPPOULIA, ἡ Ἐμπράγματος ἀσφαλεία κατὰ τὸ Ἑλληνικὸν καὶ τὸ Ρωμαϊκὸν Δίκαιον, Leipzig, 1909.
- PHILLIPSON, The international law and custom of ancient Greece and Rome, 2 vols., London, 1911.
- RATTIGAN, Ancient jus gentium of the Aryans, 15 Law Quart. Rev., p. 303.
- REGISTER, Notes on the history of commerce, etc., 61 U. of Pa. Law Review, p. 431.
- REINACH, Inscriptions juridiques grecques, Paris, 1891-1904.
- ROBY, XII Tables of Gortyna, (§943) 2 Law Quart. Rev., p. 135.
- ROGERS, Legal position of women in ancient Greece, 11 Green Bag, p. 209.
- SANDYS, Greek law (12 Encycl. Britan.¹¹, pp. 501-7.)
- SCHNEIDER, De jure hereditario Atheniensium, (1851).
- SCHÖMANN, Antiquitates juris publici Graecorum, (1838).
- SCHULIN, Das griechische Testament vergl. mit dem röm. (1882).
- SEE also supra vol. i, §§ 16-25.
- STEPHENS, Advocates of Greece and Rome, 54 Albany Law Journ., p. 12.
- Sketch of Civil and Canon laws, 31 Am. Law Reg., p. 141.
- TAYLOR-TASWELL, Greek and Roman jurisprudence in relation to slavery, 4 Law Mag. and Rev., p. 189.
- TÉLFY, Corpus Juris Attici, Leipzig, 1868.
- THALHEIM, Lehrbuch d. griechischen Rechtsaltertümer,⁴ (1895).
- THONISSEN, Le droit pénal de la république athénienne, Paris, 1875.
- WHITAKER, A chapter from old Greek probate law, 24 Green Bag, p. 129.

- WILLIAMS, Legal etymology,
28 Law Mag. and Rev., p.
257.
ZIMMERN, The Greek com-
monwealth, pp. 79-102,
121-34, Oxford, 1911.
ZOELLER, Griechische u. röm.
Privataltertümer (1887).

§ 944 Roman law of the monarchy: references.

- I. Texts of Roman law: —**
DIG., 1, 2 De origine juris,
etc., 1, and 2 to § 2 (Monro,
English translation of Di-
gest, vol. i, pp. 6-7).
BRUNS, Fontes juris⁶, pp. 1-15
(leges regiae).
GIRARD, Textes de droit ro-
main³, pp. 3-9 (leges regiae).
II. Modern references: —
BERNARD, First year of Ro-
man law (Sherman), §§ 2-16.
CLARK, Early Roman law —
the regal period, London,
1872.
— Roman private law —
sources, pp. 11-19, 29-30,
Cambridge, 1906.
COLQUHOUN, Rom. civil law,
§§ 1-10, 16, London, 1849.
CIRARD, Manuel de droit
romain⁵, pp. 9-18, Paris,
1911.
HUNTER, Roman law⁴, pp. 1-
10, London, 1903.
LAUNSPACH, State and family
in early Rome, London,
1908.
MACKELDEY, Roman law¹⁴
(English translation by
Dropsie, 1883), § 21.
MACKENZIE, Roman law⁷, pp.
3-5, London, 1898.
MUIRHEAD, Roman law², pp.
3-75, London, 1899.
PETIT, Traité de droit ro-
main⁷, §§ 10-17, Paris, 1913.
SHUMWAY, Some viewpoints
of Roman law prior to the
XII Tables.
III. See also supra vol. i,
§§ 30-33.

§ 945 Roman law of the Republic: references.

- I. Texts of Roman law: —**
— XII Tables.
(a) **Texts:**
BRUNS, Fontes Juris⁶, pp. 15-
41.
GIRARD, Textes de droit ro-
main³, pp. 5-23.
(b) **English translations:**
HOWE, Studies in the Civil
law², pp. 47-59.
HUNTER, Roman law⁴, pp.
17-22.
MEARS, in his Institutes of
Justinian, London, 1882.

— **Leges subsequent to the XII Tables.**

BRUNS, *Fontes Juris*⁶, pp. 45–160.

GIRARD, *Textes de droit romain*², pp. 24–117.

HARDY, *Six Roman laws*, Oxford, 1911, which give an English translation of the *Lex Acilia repetundarum* (122 B.C.), the *Lex Agraria* (111 B.C.), the *Lex Antonia de permissibus* (72–70 B.C.), the *Lex Julia municipalis* (45 B.C.), the *Lex municipii Tarentini* (89–62 B.C.), and the *Lex rubria de Gallia Cisalpina* (c. 42 B.C.).

— **Other Roman law citations.**

(a) **Ante-Justinian:**

GAIUS, 1, 1 and 3 (among English translations, Poste⁴).

(b) **Justinian:**

INST. 1, 2, *De jure*, etc., to § 4 (among English translations, Moyle⁴).

DIG. 1, 2, *De origine juris*, etc., 1–46 (Monro, English trans. of *Digest*, vol. i, pp. 6–19).

— 1, 3 *De legibus*, etc., (Monro, vol. i, pp. 19–23).

— 1, 9 *De senatoribus* (Monro, vol. i, pp. 42–4).

— 1, 10 *De officio consulis* (§ 945) (Monro vol. i, p. 45).

— 1, 13 *De officio quaestoris* (Monro, vol. i, p. 48).

— 1, 14 *De officio praetorum* (Monro, vol. i, p. 49).

— 1, 15 *De officio praefecti vigilum* (Monro, vol. i, p. 50).

— 1, 16 *De off. proconsul.*, etc., (Monro, vol. i, pp. 51–6).

— 1, 17 *De officio praefect. Augustalis* (Monro, vol. i, p. 56).

— 1, 18 *De officio praesidis* (Monro, vol. i, pp. 56–61).

CODE, 1, 14 *De legibus*, etc.

(c) **Post-Justinian:**

THEOPHILUS, 1, 2 *De jure*, etc., § 4.

HEXABIBLOS, 1, 1 *De legibus*, § 1–8.

II. Modern references:—

AMOS, *Roman Civil Law*, pp. 16–24, 38–9, 60–75.

AUSTIN, *Jurisprudence*³, vol. ii, *Lectures* 31–4, pp. 567–610.

BERNARD, *First year of Roman law* (Sherman), §§ 16–67.

BOTSFORD, *The Roman Assemblies*, New York, 1900. (The best English book on the subject.)

- (§945) BREMER, *Jurisprudentiae ante-Hadrianae quae supersunt* (vol. i, *Jurisconsults of the Republic*), Leipzig, 1896.
- BRYCE, *Methods of law-making in Rome and in England* (*Studies in history and jurisprudence*, pp. 708-13).
— *The history of legal development at Rome and in England* (*Studies*, pp. 745-54).
- CARLYLE, *Medieval political theory*, vol. i, pp. 1-17, London, 1903.
- CLARK, *Roman private law-sources*, pp. 19-96, 102-7.
- COLQUHOUN, *Roman Civil Law* §§ 11-45.
- EVANS, *Roman law studies in Livy*, New York, 1909.
- GIRARD, *Manuel de droit rom.*⁵, pp. 19-46.
— *The law of the XII Tables*, 135 *Law Times*, pp. 48-9.
- GOODWIN, *The XII Tables*, London, 1886.
- GOODY, *Are the XII Tables authentic?* 17 *Juridical Review*, p. 93.
- GRADENWITZ, *Zu den Zwölf Tafeln* (*Mélanges P. F. Girard*, vol. i, pp. 505-12, Paris, 1912).
- GREENE, *Roman law*⁴, pp. 1-6.
- GUYOT, *L'idée de fiction*, 32 *Revue générale du droit*, pp. 416-21.
- HEITLAND, *The Roman Republic*, §§ 86-93, Cambridge, 1909.
- HOWE, *Studies in the Civil Law*², lecture vi.
- HUNTER, *Roman law*⁴, pp. 11-65.
- LEAGE, *Roman private law*, pp. 1-28.
- LENEL, *Palingenesia juris civilis*, 2 vols., Leipzig, 1889. (*Writings of jurists of the Republic*.)
- MACKELDEY, *Roman law*¹⁴ (*Dropsie, English translator*), §§ 22-39.
- MACKENZIE, *Roman law*⁷, pp. 5-14.
- MUIRHEAD, *Roman law*², pp. 79-276.
- PETIT, *Traité de droit romain*⁷, §§ 17-37.
- REGISTER, *Notes on the history of commerce, etc.*, 61 *Univ. of Pa. L. Rev.*, p. 431.
- ROBY, *Introduction to the Digest*, pp. xci-cxxiv, Cambridge, 1886.
- SOHM, *Roman law* (*Ledlie*³), pp. 34-69.
- TAYLOR, *Cicero*, Chic., 1916.
- WILLIAMS, *Interpretation in Roman law*, 15 *Law Mag. and Rev.*, p. 223.
- WINCHESTER, *Roman jurisprudence*, 52 *Albany Law Journ.*, p. 171.
- III. See also *supra* vol. i, §§ 34-53.

Praetorian and other Edicts: references.**§946****I. Texts of Roman law: —**

DIG. 1, 13 De officio praetorum (Monro, English translation of Digest, vol. i, p. 49).

GAIUS, 1, 6, (among Eng. transl., Poste⁴).

INST. 1, 2, 7, (among Eng. transl., Moyle⁴).

THEOPHILUS, Inst., 1, 2, 7.

II. Texts of Edicts: —

BRUNS, Fontes Juris⁶, pp. 202-37.

GIRARD, Textes de droit romain³, pp. 131-68.

WALKER, Edictum Julianum, Cambridge, 1877.

III. Modern references: —

AUSTIN, Jurisprudence³, vol. ii, pp. 610-25 (Lecture 35).

BRY, L'édit de Caracalla de 212, etc. (in Études d'his-

toire juridique off. à P. F. Girard, vol. i, pp. 1-42, Paris, 1913).

BRYCE, Methods of law-making in Rome and in England (in Studies, etc., pp. 687-707).

BUCKLAND, Equity in Roman law, p. 5, London, 1911.

KALINDERO, Droit prétorien et réponses des prudentes, (1885).

KRUEGER, Quellen, etc., pp. 84-92.

LENEL, Das Edictum perpetuum, Leipzig.

MUIRHEAD, Roman law², pp. 289-91.

TRUAX, The Roman praetor and jus honorarium, 15 Albany Law Journal, 136.

IV. See also infra § §947-949; supra vol. i, § §60-61.

Greek philosophy, especially Stoicism: references.**§947****I. Texts of Roman law: —**

CODE, 4, 56 Si mancipium ita venerit ne prostituatur.

— 8, 51 (52) De infantibus expositis, etc.

COD. THEODOS. 5, 9 De expositis.

DIG. 1, 3, De legibus, 2.

II. Modern references: —

ARNOLD, Roman Stoicism, Cambridge, 1911.

BEROLZHEIMER (Jastrow, translator), The world's legal philosophies, ch. 3, Boston, 1912.

BRYCE, Methods of legal science (Studies in history, etc. pp. 607, 637).

— The law of nature (Studies, pp. 556-606).

- EMERTON, Stoic terminology in Roman law, 3 *Law Quart. Rev.*, p. 64.
- GRAPEL, Sources of the Roman civil law, ch. 8.
- HAINES, The law of nature in state and federal judicial decisions, 25 *Yale Law Journal*, p. 617.
- HERFORD, The Stoics as teachers, Cambridge, 1882.
- LEFROY, Rome and law, 20 *Harv. Law Rev.*, pp. 608-11.
- LEONHARD, The vocation of America for the science of Roman law, 26 *Harv. Law Rev.*, pp. 408-11.
- MAINE, Ancient law, ch. 3.
- ORTOLAN (Prichard and Nasmith, translators), History of Roman law, § 263, London, 1871.
- PATTEE, The essential nature of law or the ethical basis of jurisprudence, Chicago, 1909.
- PHILLIMORE, Principles and maxims of jurisprudence, London, 1856.
- POLLOCK, History of the law of nature, 1 *Columbia Law Rev.*, p. 11, 2 *Columbia Law Rev.*, p. 131.
- RAVENET, The spirit of the Roman law, 12 *Green Bag*, p. 598.
- SALMOND, The law of nature, 11 *Law Quart. Rev.*, p. 121.
- SISSON, Can virtue be taught? 41 *Educational Rev.*, p. 261.
- III. See also *supra* vol. i, § § 62-7.

§ 948 **Jus respondendi and jurists of the Early Empire: references.**

- I. **Texts.** There is a restoration of the writings of all the jurists mentioned in Justinian's Digest made by:
- LENEL, *Palingenesia juris civilis*, 2 vols., Leipzig, 1889.
- The next important textual works are:
- KRUEGER, MOMMSEN, and STUEDEMUND, *Collectio librorum juris ante-Justiniani*, 3 vols., Berlin, 1878-1905. These may be had separately. Vol. i — *Institutes of Gaius*, 5th ed., 1905; vol. ii — *Ulpian's Regulae, Paulus' Sententiae*; vol. iii — *Alia minora*, 1878.
- GIRARD, *Textes de droit romain*³, Paris, 1903, contains among other things the text of Gaius' *Institutes*, Ulpian's *Regulae*, and Paulus' *Sententiae*.¹

¹ KNIFF, *Der Rechtsgelerhte Gaius*, etc., 1910-17 (text of *Institutes* with commentary).

HUSCHKE, *Jurisprudentiae ante-Justinianae*, 5th ed., 5 vols., 1886.

BREMER, *Jurisprudentiae ante-Hadrianæ*, vol. ii, Leipzig, 1898.

BRUNS, *Fontes juris* ⁶, pars posterior, contains texts of Roman writers, not jurists, on legal subjects.

II. Translations of texts.

Extracts from the works of the jurists contained in the Digest of Justinian will, of course, be found translated (1) in the French translation of the *Corpus Juris Civilis* (Institutes, Code, Digest, Novels), 16 vols. quarto, Paris, 1806–10; (2) in the German translation of the same, Leipzig, 1830–33; (3) in the English translation of the Digest, books 1–15 inclusive, Monro, Cambridge, 1904–9.

(a) English translations of Gaius' Institutes:

ABDY and WALKER, 3d ed., Cambridge, 1885.

CROSS (scattered throughout Hunter's *Roman law* ⁴—see, however, pp. 1113–18).

MEARS, *Institutes of Gaius and Justinian*, London, 1882.

MUIRHEAD, Edinburgh, 1895. (§948)

POSTE, 4th ed., Oxford, 1904 (the standard work).

TOMKINS and LEMON, London, 1869.

(b) French translations of Paulus' Sententiae:

DAUBANTON (French translation of the *Corpus Juris Civilis*, see *supra*), *Le trésor*.

(c) English translations of Ulpian's Regulae:

ABDY and WALKER, *Commentaries of Gaius and Rules of Ulpian* ³, London, 1885.

MUIRHEAD, *Institutes of Gaius and Rules of Ulpian*, Edinburgh, 1895.

III. Roman law citations.

COD. THEODOS. 1, 4 *De responsis prudentium*.

DIG. 50, 17 *De diversis regulis juris antiqui*.

GAIUS 1, 7 (among Eng. transl., Poste ⁴).

INST. 1, 2, 8 (among Eng. transl., Moyle ⁴).

THEOPH. 1, 2, 8.

IV. Modern references.

APPLETON, *Quaestio Domitiana, responsum Celsinum* (in *Mélanges P. F. Girard*, vol. i, pp. 1–26, Paris, 1912).

- (§948) AUSTIN, *Jurisprudence*³, vol. ii, pp. 567-94 (Lectures 31-4).
- BALOG, *Skizzen aus der römischen Rechtsgeschichte* (in *Études d'histoire juridique off. à P. F. Girard*, vol. ii, pp. 337-540, Paris, 1913).
- BRYCE, *Studies in history and jurisprudence*, pp. 607-37, 676-86, New York, 1901.
- BUHL, *Salvius Julianus*, Heidelberg, 1886.
- CAMMELLI, *Le due scuole dei giureconsulti romani*, Florence, 1898.
- CARLYLE, *Medieval political theory*, vol. i, pp. 19-61, London, 1903.
- COSTA, *Papiniano — studio di storia interna del diritto romano*, 4 vols., Bologna 1894-98.
- CLARK, *Roman private law-sources*, pp. 107-44, Cambridge, 1906.
- ESMEIN, *Fragments du livre ix des Responsa Papiniani avec les notes de Paul et d'Ulpian* (in *Mélanges*, pp. 339-58, Paris, 1886).
- FINK, *Roman equity*, 1 *Law Mag. and Rev.*, p. 667.
- GIRARD, *Manuel de droit romain*⁵, pp. 62-70.
- GLASSON, *Étude sur Gaius*, 1 *Law Quart. Rev.*, p. 508.
- GREAT JURISTS OF THE WORLD, pp. 1-44, (vol. ii, *Continental Legal History Series*, Boston, 1914).
- HUNTER, *Roman law*⁴, pp. 65-85.
- KALINDERO, *Droit prétorien et réponses des prudents*, 1885.
- KELLY, *The Gaian fragment*, 6 *Ill. Law Review*, p. 561 (1912).
- KNIEP, *Der Rechtsgelehrte Gaius*.
- KRUEGER, *Quellen*, pp. 109-14, 169-254.
- LEDLIE, *Great jurists of the world — Gaius*, 13 *Journal Compar. Legis.* (no. 28, July, 1913).
- LÉVY-BRUHL, *Examen d'un criterium grammatical de datation: le temps des verbes employés dans les citations des jurisconsultes romains* (in *Études d'histoire juridique off. à P. F. Girard*, vol. i, pp. 99-122, Paris, 1913).
- MAY, *Sur quelques exemples de gémation juridique dans les auteurs littéraires latins* (in *Mélanges Gérardin*, 1907, pp. 399-412).
- MUIRHEAD, *Roman law*², pp. 291-3, 296-314.
- REICH, *Graeco-Roman institutions*, 7 *Law Quart. Rev.* 86.
- ROBY, *Introduction to the Digest*, ch. ix-xv, pp. cxxiv-ccviii, Cambridge, 1886.

SALMOND, Law of nature, 11
Law Quart. Rev., p. 321.

WILLIAMS, Comparative
Roman law, 30 Law mag.
and Rev., p. 150.

— Interpretation in Roman
law, 15 Law Mag. and
Rev., p. 223.

— Legal etymology, 28 Law
Mag. and Rev., p. 257.

WINCHESTER, Roman juris-
prudence, 52 Albany Law
Jour., p. 171.

V. See also supra vol. i,
§§68-110.

Roman law of the Early Empire: references.

§ 949

I. Texts of Roman law:—

— **Leges, Edictum Hadrian.,
Responsa, SC.**

See §§ 67 and 118, also

BREMER, Jurisprudentia ante-
Hadriana, vol. ii, "Empire,"
Leipzig, 1896-1901.

BRUNS, Fontes juris⁶, pp.
160-202 (SC.).

GIRARD, Textes de droit ro-
main³, pp. 103-472.

— **Other Roman law cita-
tions.**

(a) Ante-Justinian:

GAIUS, 1, 4 and 5 (among Eng.
transl., Poste⁴).

COD. THEOD. 1, titles 1, 2
and 3. These treat of con-
stitutiones, edicta, rescripta,
and mandata principum.

— 1, 6 De officio praefecti
urbis.

(b) Justinian:

INST. 1, 2, De jure, etc., 5-
6 (among Eng. transl.,
Moyle⁴).

DIG. 1, titles 4, 9-10, 12-18
(Monro, Eng. transl. of
Digest, vol. i, pp. 23-4,
42-61). These treat of
constitutiones principum;
the office of senator, consul,
praefectus urbi, quaestor,
praetor, praefectus vigilum,
proconsul, legatus, praefec-
tus Augustalis, and praeses.

CODE, 1, titles 14-16, 23, 28,
35. These treat of leges;
constitutiones, edicta, and
mandata principum; sena-
tusconsulta; the office of
praefectus urbi, proconsul,
legatus.

— 5, 8, Si nuptiae ex re-
scripto, etc.,

— 12, 63 (64) . . . Insin-
uatores constitutionum, etc.

Nov. 17 De mandatis prin-
cipum.

(c) Post-Justinian:

THEOPH. 1, 2 De jure, etc.,
5-7.

HEXABIBLOS, 1, 1 De legibus,
1-4.

II. Modern references: —

ALLEN, Enquiry into rise and progress of royal prerogative (1831).

ARNOLD, The Roman system of provincial administration to Constantine the Great², Oxford, 1906.

AUSTIN, Jurisprudence³, vol. ii, pp. 567–600 (Lectures 31–4).

BOTSFORD, The Roman assemblies, New York, 1900.

BRY, L'édit de Caracalla de 212 (in *Études d'hist. jurid. off. à P.F. Girard*, vol. i, pp. 1–42, Paris, 1913).

BRYCE, Studies in history and jurisprudence, pp. 523–8, 669–741.

BUSSELL, The Roman Empire — constitutional history, vol. i, pp. 1–88, London, 1910.

FRIEDLANDER (Gough, translator), Roman life and manners under the Early Empire⁷, 4 vols., 1909–13.

GIRARD, Manuel de droit romain⁵, pp. 47–70.

HUNTER, Roman law⁴, pp. 65–85.

KRUEGER, Quellen, pp. 81–109.

MACKELDEY (Dropsie translator), Roman law¹⁴, §§ 40–55.

MACKENZIE, Roman law⁷, pp. 14–19.

MUIRHEAD, Roman law², pp. 279–350.

PETIT, Traité de droit romain⁷, §§ 38–44.

SOHM (Ledlie³), Roman law, pp. 18–19, 70–112.

TRAUX, Senatusconsulta, 14 Albany Law Journ., 443.

TUCKER, Life in the Roman world of Nero and St. Paul, pp. 49–70, New York, 1910.

III. See also *infra* §1021; *supra* vol. ii, §§ 873–907, “Constitutional and administrative law”; vol. i, §§ 111–15.

§ 950 Influence of Roman law on Christianity: references.

BALL, St. Paul and the Roman law, Edinburgh, 1901.

DEISSMANN (Stracham translator), Light from the ancient East², London, 1911, (Index).

FERGUSON, The legal terms common to the Macedonian inscriptions and the New Testament, Chicago, 1914.

LYON, Le droit chez Isidore² de Peluse (in *Études d'histoire jurid. off. à P.F. Girard*, vol. ii, pp. 209–22, Paris, 1913).

MUNTZ, Rome, St. Paul, and the early Church, London, 1913.

See also *supra* vol. i, §§ 116–19.

Ante-Justinian codes and collections: references.

§951

I. Texts of codes of statutes:—

— Gregorian and Hermogenian Codes:

KRUEGER-MOMMSEN—STUEMUND, *Collectio librorum juris ante-Justiniani*, vol. iii, Berlin, 1895. (The best edition.)

HAENEL, *Codices Theodosianus, Gregorianus, Hermogenianus*, 1842-44.

DAUBANTON, *Le trésor*, etc. (in French transl. of *Corpus Juris*, — see *infra* § 952).

— Theodosian Code:

MOMMSEN-MEYER, *Theodosiani libri xvi cum const. Sirmondian.*, 2 vols. in 3, Berlin, 1895. (The best edition.)

GOTHOFREDUS, J., *Codex Theodosianus cum perpetuis commentariis* (ed. Ritter), 6 vols., Leipzig, 1736-41.

HAENEL, *Codices Theodosianus*, etc., 1842-44.

— Const. Sirmondian.:

These are in vol. 1, part 2, of MOMMSEN-MEYER, *Theodosian Code*.

— Post-Theodosian Novels or the Novels of Theodosius II, Valentinian III,

Marcian, Marjorian, Leo and Severus, and Anthemius:

These are in vol. 2, MOMMSEN-MEYER, *Theodosian Code*.

— Other works:

HAENEL, *Corpus legum*, Leipzig, 1855. (For texts of Imperial statutes, prior to Justinian, not in *Cod. Theod.* or other codes).

HUSCHKE, *Jurisprudentiae ante-Justinianae*, 5th ed., 5 vol., 1886.

II. Texts of collections of jurisprudence:—

— Collatio Mosaic. et Rom. legum:

GIRARD, *Textes de droit romain*³, pp. 543-77.

HYAMSON, *Coll. Mos. et Rom.*, London, 1913. (Text and Eng. transl.)

KRUEGER-MOMMSEN-STUEMUND, *Coll. lib. ante-Just.* vol. iii.

— Consultatio vet. kuj. jurisconsult.:

GIRARD, *Textes*³, pp. 590-606.

KRUEGER-MOMMSEN-STUEMUND, *Collectio*, etc., vol. iii.

(§951) — **Syrian-Roman Law book:**

BRUNS and SACHAU, *Syrisch-römisches Rechtsbuch aus dem fünften Jahrhundert*, Leipzig, 1880. (German translations of the various versions began to be published by SACHAU in 1907 at Berlin.)

— **Vatican Fragments:**

GIRARD, *Textes*³, pp. 482–542.
KRUEGER—MOMMSEN—STUEMUND, *Collectio*, etc., vol. iii.

III. Texts of Leges Rom. Barbarorum:—

CANCIANI, *Barbarorum leges antiquae*, 5 vols., Venice, 1781–92.
HAENEL, *Lex Romana Visigothorum* (Breviary of Alaric), Leipzig, 1849.

IV. Other Roman law citations:—

HEXABIBLOS, 1, 1 *De legibus*, 4.

V. Modern references:—

A GENERAL SURVEY (vol. i, *Continental Legal Hist. Series*, Boston, 1912), pp. 3–19.
AMOS, *Rom. civil law*, pp. 86–96.
BOYD, *The ecclesiast. edicts of the Theodos. Code* (vol. 24, no. 2, Columbia Univ.

Studies in Polit. Science, New York, 1905).

BUSSELL, *The Roman Empire—constitutional history*, vol. i, pp. 88–218, vol. ii, pp. 1–32, London, 1910.

COLQUHOUN, *Roman civil law*, § 58.

CROMER, *Ancient and modern imperialism*, London, 1910.

ESMEIN, *Un traité de droit syro-romain au V^e siècle*, Paris, 1880.

— *Un traité de droit syro-romain du cinquième siècle* (*Mélanges*, pp. 402–17, Paris, 1886).

GIBBON, *Decline and fall of Rom. empire*, ch. 44.

GIRARD, *Manuel de droit romain*⁵, pp. 70–777.

GOYAU, *La tétrarchie* (in vol. i, *Études d'hist. jurid. off.* à P. F. Girard, pp. 65–84, Paris, 1913).

GREENE, *Roman law*⁴, pp. 9–13.

HUNTER, *Roman law*⁴, pp. 85–9.

KRUEGER, *Quellen*, pp. 272–322.

LEE, *The Barbarian codes*, 9 Green Bag, p. 428.

MACKELDEY (Dropsie), *Roman law*¹⁴, §§ 56–8.

MACKENZIE, *Roman law*⁷, pp. 20–24.

MOREY, *Roman law*, pp. 154–8.

JUSTINIAN'S CODIFICATION, THE CORPUS JURIS 19

MUIRHEAD, *Roman law*², pp. 352-75.

ORTOLAN (Prichard and Nasmith, transl.), *History of Roman law*, §§ 83-104.

LETIT, *Traité de droit romain*⁷, §§ 45-9.

PISCANI, *The Theodosian Code*, 10 Green Bag, p. 309.

SOHM (Ledlie³), *Roman law*, pp. 112-21.

VERNAY, *Note sur le changement de style dans les constitutions impériales de Dioclétien à Constantin* (in vol. ii, *Études d'hist. jurid.* off. à P. F. Girard, pp. 263-74, Paris, 1913).

VI. See also *infra* §§ 952, 956; *supra* vol. i, §§ 124-133.

Justinian Roman law: references.

§ 952

I. Text of *Corpus Juris Civilis*:¹—

The latest and best edition is:

MOMMSEN-KRUEGER-SCHOELL-KROLL, *Corpus Juris Civilis*, editio stereotypa, 3 vols., Berlin, 1880-1908: vol. i contains the "Institutiones" (Krueger) and "Digesta" (MommSEN), 15th edition, 1928; vol. ii, the "Codex Justinianus" (Krueger), 9th edition, 1928; vol. iii, the "Novellae," "Edicta Justiniani," and "Constitutiones dispersae" (Schoell and Kroll), 5th edition, 1928.

The following editions of parts of the *Corpus Juris* are deserving of special mention:

main³, pp. 607-764 (*Institutiones*).

HAENEL, *Juliani epitome latina novellarum*, Leipzig, 1873.

HOLLAND, *The Institutes of Justinian* edited as a recension of the *Institutes of Gaius*, 2d ed., Oxford, 1881. (Distinguishes *Gaius* in the work of Justinian by the use of heavier type.)

MOYLE, *Imperatoris Justiniani Institutiones*, 5th ed., Oxford, 1912 (also edited as a recension of *Gaius*).

II. Translations of the *Corpus Juris Civilis*:—

There are complete English, French and German translations of the *Corpus Juris*.

GIRARD, *Textes de droit ro-*

¹ For mode of citation, see *infra* Appendix I, pp. 317-20.

(1952) (a) **French:**

HULDT-DAUBANTON-TISSOT-BERENGER-BERTHELOT, *Les Institutes, le trésor de l'ancienne jurisprudence romaine, le Code, les Pandectes, les Nouvelles de Justinien* (there is no general title to the French translation of the *Corpus Juris*—each part bears a separate title), Metz or Paris, 1804-11. The French translation is of the Florentine and other MSS., prior to the labor of Mommsen and other 19th century editors of these MSS.

ORTOLAN, *Les Institutes de Justinien*⁸, 2 vols., Paris, 1870.

(b) **German:**

OTTO-SCHILLING-SINTENIS, *Corpus Juris Civilis*, 7 vols., Leipzig, 1830-33.

(c) **English:**¹

— **Institutes:** The latest translation of the *Institutes* is by MOYLE, *Institutes of Justinian*, 4th edition, Oxford, 1906. Other translations of the *Institutes* are:

ABDY and WALKER, Cambridge, 1876.

COOPER, New York, 1841.

CROSS (see pp. 1118-22 of Hunter, *Roman law*⁴, London, 1903).

CUMMIN, London, 1865.

GRAPEL, Cambridge, 1885.

HARRIS, London, 1761.

MEARS, *Institutes of Gaius and Justinian*, London, 1882.

SANDERS, London, 1853. (Virtually a translation of Ortolan's French translation.)

— **Digest:**

The three prefatory Constitutions to the Digest ("Deo auctore," "Omni rei publicae," "Tanta") and books 1-15 inclusive, are translated by MONRO, *Digest of Justinian*, 2 vols., Cambridge, 1904-9. Fragmentary titles of books 16-50 of the Digest have been translated by the following:

DIG. 17, 1 *Mandati vel contra*, by WALKER, pp. 9-80, (1879).

— 18, 1 by MACKINTOSH in his "Roman law of sale," Edinburgh, 1907.

— 19, 1 by MACKINTOSH, Id.

— 19, 2 *Locati conducti*, by MONRO, pp. 1-75 (1891).

— 20 (all), by JACKSON, pp. 43-98 (1908).

— 39, 1, fr. 1 and 5, WARE, "Roman water law," 1905.

¹ SCOTT, *A translation of the Civil Law* (complete English Translation of the *Corpus Juris*), 7 vols., Cincinnati, 1932.

JUSTINIAN'S CODIFICATION, THE CORPUS JURIS 21

— 39, 2, fr. 24 and 30 by
WARE, Id.

— 39, 3, fr. 1-26, by WARE,
Id.

— 41, 1 De acquirendo
rerum dominio, by Walker.

— 41, 1, fr. 14-16, 29-30,
56 and 65 by WARE, Id.

— 41, 2 De adq. vel amitt.
poss. by WALKER.

— 41, 2, fr. 13 by WARE, Id.

— 41, 10, fr. 2 by WARE, Id.

— 43, 8, fr. 2-5 by WARE,
Id.

— 43, 10, fr. 1 by WARE, Id.

— 43, 12, fr. 1-4 by WARE,
Id.

— 43, 13, fr. 1 by WARE, Id.

— 43, 14, fr. 1 by WARE, Id.

— 43, 15, fr. 1 by WARE, Id.

— 43, 20, fr. 1-8 by WARE,
Id.

— 43, 21, fr. 1-4, by WARE,
Id.

— 43, 22, fr. 1 by WARE, Id.

— 43, 23, fr. 1-2 by WARE,
Id.

— 43, 24, fr. 11 by WARE, Id.

— 45, 1 De verborum oblig.
by TRAPNELL, pp. 76-149
(1908).

— 47, 2 De furtis, by
MONRO, pp. 1-115 (1893).

KELLY, *Essentials of the
Roman Civil Law*, being
a selection of titles from
the Pandects of Justinian
translated into English,
Chicago, 1904.

— **Code:**

(§952)

Fragmentary titles of the
Code have been translated
by the following:

CODE, 3, 34, 1, 2-7, 10 and
12 by WARE, Id.

— 3, 35, 1, 1-2 by WARE,
Id.

— 11, 42, 1, 1-4 and 6-11,
by WARE, Id.

— **Novels:**

These novels have been
translated: Nov. 118 and
127, by MEARS, in his *In-
stitutes of Gaius and Jus-
tinian*, London, 1882.

III. Roman law citations:—

For a comparison of the
titles of the Theodosian
and Justinian Codes,
showing how the latter
borrowed from the former,
see MOMMSEN-MEYER edi-
tion of Theodosian Code I,
1, pp. xiii et seq.

(a) **Justinian:**

INST. Prooemium (Preface)—
among Eng. transl. MOYLE⁴.

DIG. Prefatory Constitutions
"Deo auctore" (also re-
peated in COD. 1, 17, 1),
"Tanta" (repeated COD. 1,
17, 2) — Eng. transl. by
MONRO, *Digest*, vol. i, pp.
xiii-xvii, xxv-xxxvi.

COD. Prefatory Constitutions
"Haec quae necessario,"

(§952) "Summa rei publicae,"
 "Cordi nobis" (in vol. ii,
 Mommsen, etc. edition of
 Corpus Juris Civ.).

CONST. DISPERSAE, 7 and 8
 (in vol. iii, Mommsen, etc.,
 edition of Corpus Juris Civ.,
 appendix ii to the Novels).

(b) **Post-Justinian:**

INST. THEOPH. Prooemium
 (preface).

IV. Modern references:—

A GENERAL SURVEY, etc.
 (vol. i, Continental Legal
 History Series, Boston,
 1912), pp. 19-22.

AMOS, Roman civil law, pp.
 96-102.

APPLETON, Des interpolations
 dans les Pandectes, Paris,
 1894.

— Le fragment 16, D., xii,
 4 (in 36 *Revue gén. du*
droit, pp. 481-543).

AUSTIN, *Jurisprudence*³, vol.
 ii, pp. 625-41 (lecture 36).

BIENER, *Geschichte der No-*
vellen Justinian's, Berlin,
 1824.

BRISSENIUS, *De verborum*
quae ad jus civile pertinent
significatione (ed. Heinec-
 cius), Magdeburg, 1743.

BUSSELL, *The Roman Em-*
pire—const. hist., vol. i,
 pp. 218-45, vol. ii, pp.
 33-6, London, 1910.

CARLYLE, *Medieval political*
theory, vol. i, pp. 71-7,
 London, 1903.

COLLINET, *Études historiques*
sur le droit de Justinien,
 vol. i, Paris, 1912.

COLQUHOUN, *Roman law*,
 §§ 59-70.

DIEHL, *Justinien* (1901).

DIRKSEN, *Manuale juris civ-*
ilis, Berlin, 1837.

ECKERT, *Chrestomathie*, Hei-
 delberg, 1853.

GIBBON, *Decline and fall of*
the Roman Empire, ch. 44.

GIRARD, *Manuel de droit*
*romain*⁵, pp. 77-82.

GRADENWITZ, *Interpolatio-*
nen in den Pandekten, Ber-
 lin, 1887.

GREENE, *Roman law*⁴, pp.
 13-15.

GUIZOT, *History of civiliza-*
tion in France, lecture 11.

HADLEY, *Roman law*, pp.
 1-24.

HESS, *Achtzehn Civilrechts-*
fälle, Coburg, 1874.

HEUMANN, *Handlexikon zu*
den Quellen des röm.
*Rechts*⁸, Jena, 1895.

HOLMES, *The age of Justinian*,
 etc, 2 vols., London, 1905-7.

HOWE, *Studies in the Civil*
*Law*², pp. 64-72.

HUNTER, *Roman law*⁴, pp.
 90-93.

KRUEGER, *Quellen, etc.*, pp.
 322-47, 353-9, 370-89.

- LEAGE, Roman law, pp. 34-41.
 LEGARÉ, Works, vol. i, p. 502.
 MACKELDEY (Dropsie) Roman law¹⁴, §§ 69-82.
 MACKENZIE, Roman law⁷, pp. 25-33.
 MITTEIS, Ueber den Ausdruck "Potentiores" in den Digesten (Mélanges P. F. Girard, vol. ii, pp. 225-35, Paris, 1912).
 MUIRHEAD, Roman law², pp. 376-411.
 NOAILLES, Les collections de nouvelles de l'Empereur Justinien, Paris, 1912.
 ORTOLAN (Prichard and Nasmith), History of Roman law, §§ 105-11.
 PETIT, Traité de droit romain⁷, §§ 50-52.
 PISACANI, Institutes of Justinian in verse (1684), 2 Green Bag, p. 175.
 PHILLIMORE, Private law of the Romans, pp. 5-25.
 — Introduction to Roman law, ch. 4.
 PROBLEMS of Roman legal history, 4 Columbia Law Review, p. 523.
 REINSCH, Precedent and codification, Judicial Settlement of Internat'l Disputes, No. 12, May 1913, p. 3.
 ROBY, Introduction to the Digest, Cambridge, 1886.
 SALKOWSKI (Whitfield, transl.), Institutes, pp. 38-73.
 SANDERS, Institutes of Justinian (Introduction pp. 15-18, 81-4).
 SCHRADER, Justiniani Institutiones, Berlin, 1832 (notes and commentary in Latin).
 SCHULTING, Notae ad Digesta seu Pandectas, Leyden, 1804-35 (8 parts).
 SCHUNDLER, Präparationen zu den Institutiones Justiniani, Tübingen, 1911.
 SEMMES, The Civil Law and codification (in Am. Bar Ass'n Reports, 1886).
 SHUMWAY, Justinian's redaction, 40 Am. Law Rev., p. 195.
 SOHM (Ledlie³), Roman law, pp. 16-22, 121-5.
 VIDMAR, Introductio Corpus Juris utriusque, Vienna, 1886.
 WILLIAMS, Latin of the Corpus Juris, 26 Law Mag. and Rev., p. 272.
 — Comparative Roman law, 30 Law Mag. and Rev., p. 72.
 ZOCCO-ROSA, Risultati d'una nuova Palingenesi delle Istituzioni di Giustiniano (Mélanges P. F. Girard, vol. ii, pp. 645-57, Paris, 1912).
 V. See also infra § 956; supra vol. i, §§ 134-43.

§ 953 Influence of Christianity on Roman law: references.

I. Texts of Roman law: —

(a) Ante-Justinian:

COD. THEOD. 1, 27 De episcopali ordinatione.

— 5, 9 De expositis.

— 5, 10 De . . . sanguinolentos emptos, etc.

— 9, 45 De his qui ad ecclesias confugiunt.

— 16, 1 De fide catholica.

— 16, 2 De episcopis, eccles. et clericis.

— 16, 3, De monachis.

— 16, 4, De . . . super religione contendunt.

— 16, 5 De haereticis.

— 16, 6, Ne sanctum baptismum iteretur.

— 16, 7 De apostatis.

— 16, 8 De Judaeis, caelicis et Samaritanis.

— 16, 9 Ne Christianum mancipium Judaeus habeat.

— 16, 10 De paganis . . . et templis.

— 16, 11 De religione.

CONST. SIRMUNDIAN. (Appendix Mommsen-Meyer edition Theodosian Code, 1, 2, pp. 907 et seq.), 1-16.

NOV. THEOD. 3 De Judaeis, Samaritanis, haereticis et paganis (Mommsen-Meyer, Id. vol. 2, pp. 7-11).

NOV. VALENTINIAN. 17 De episcopis ordinatione (2

Mommsen-Meyer, Id., pp. 101-3).

— 18 De Manichaeis (2 Mommsen-Meyer, Id., pp. 103-5).

— 35 De episcopali judicio, etc. (2 Mommsen-Meyer, Id., pp. 142-52).

NOV. MARJORIAN, 11 De episcopali judicio, etc. (2 Mommsen-Meyer, Id., pp. 176-8).

NOV. MARCIAN, 5 De testament clericorum (2 Mommsen-Meyer, Id., pp. 193-6).

(b) Justinian:

COD. 1, 1 De . . . trinitate et de fide catholica.

— 1, 2 De . . . ecclesiis, etc.

— 1, 3 De episcopis et clericis et orphanotrophis, etc.

— 1, 4 De episcopali audientia, etc.

— 1, 5 De haereticis et Manichaeis et Samaritanis.

— 1, 6 Ne sancta baptismum iteretur.

— 1, 7 De apostatis.

— 1, 8 Nemini licere signum salvatoris Christi . . . vel in marmore aut sculpare aut pingere.

— 1, 9 De Judaeis et caelicis.

- 1, 10 Ne Christianum mancipium haereticus vel paganus vel Judaeus habeat etc.
- 1, 11 De paganis . . . et templis.
- 1, 12 De his qui ad ecclesias confugiunt, etc.
- 1, 13 De his qui in ecclesiis manumittuntur.
- 4, 56 Si mancipium ita venerit, ne prostituatur.
- 8, 51 (52) De infantibus expositis et de his qui sanguinolentos emptos nutriendos acceperunt.
- 9, 17 De his qui parentes vel liberos occiderunt.
- 11, 44 (43) De gladiatoribus penitus tollendis.
- Nov. 3 Ut determinatus sit numerus clericorum sanctissimae majoris ecclesiae . . . Constantinop., etc.
- 5 De monachis.
- 6 Quomodo oporteat episcopos et reliq. cleric. ad ordinationem deduci, etc.
- 7 De non alienandis . . . eccles. rebus, etc.
- 9 Ut ecclesia Romana centum annorum habeat praescriptionem.
- 11 De privilegiis archiepiscopi primae Justinianae.
- 16 De mensura ordinand. cleric.
- 37 De Africana ecclesia.
- 40 Ut ecclesia sanctae (§953) resurrectionis possit alienare habitacula, etc.
- 42 De depositione Anthimi, etc.
- 45 Ut haeretici, etc.
- 46 De ecclesiast. immobil. rerum alienatione, etc.
- 56 Ut ea quae vocantur insinuativa super clericis, etc.
- 57 Ut clerici, etc.
- 58 Ut in privatis domibus sacra mysteria non fiant.
- 65 De alienatione rer. ecclesiae Mysiae relict. pro captivorum redemptione, etc.
- 67 Ut nullus fabricet oratorii domum praeter voluntatem episcopi, etc.
- 76 De his qui ingrediuntur in monasterium, etc.
- 77 Ut non luxurietur contra naturam neque juretur, etc.
- 79 Apud quos oporteat causam dicere monachos et ascetrias.
- 81 Const. quae dignitatibus et episcopatu liberat filium patria potestate.
- 83 Ut clerici apud . . . episcopos primum conveniantur et post haec apud civiles judices.
- 86 Ut differentes judices audire interpellantium al-

- (§953) legationes cognatur ab episcopis, etc.
- 109 De privilegiis dotis haereticis mulieribus non praestandis.
- 123 De sanctissimis et . . . episcopis et clericis et monachis.
- 129 De Samaritis.
- 131 De ecclesiasticis titulis.
- 132 De interdictis collectis haereticorum.
- 133 Quomodo oportet monachos vivere.
- 137 De creatione episcoporum et clericorum.
- 144 De Samaritis.
- EDICTA (appendix i to vol. iii, Mommsen-Krueger, etc., Corpus Juris Civilis), 2, Ne praesides in fiscalibus asyli jus.
- CONST. DISPERSAE (appendix ii to vol. iii, Id.), 2-3.
- (c) **Post-Justinian:**
- PROCHIRON, 28 De ordinatione episcoporum et presbyterorum.
- EPANAGOGA, 3 De patriarcha.
- 8 De episcopo . . . ordinatione et nominatione.
- 9 De episcopis et presbyteris, etc.
- BASILICA, 1, 1 De summa trinitate et fide catholica.
- 3, 1 De episcopis et clericis et ordinatione et privilegiis eorum.
- 3, 2 De numero clericorum magnae ecclesiae Constantinop., etc.
- 3, 3 De clericis ex una ecclesia in alteram transferendis, etc.
- 3, 4, De clericis, qui a sua ecclesia discedunt, etc.
- 4, 1 De monasteriis, etc.
- 5, 1 De ecclesiis et monasteriis, etc.
- 5, 2 De alienatione . . . rer. ecclesiast.
- 5, 3 De ecclesiasticis canonibus et privilegiis eorum.
- 6, 22 Ut praesides interpellantis jura audire cunctantes ab episcopis, etc.
- 19, 17 De ancilla ita vendita, ne prostituatur.
- 31, 5 Const. quae per dignitates et episcopatum filios patria potestate liberat.
- 33, 2 De infantibus expositis . . . et de his qui sanguinolentos emerunt, etc.
- 60, 50 De quaestione.
- 60, 58 De raptore virginum vel viduarum nec non sanctimonialium.
- HEXABIBLOS (Preface of Harmenopulos), Judicium praeparatio sive justitia,

- 2, 5 De muneribus, etc.
- 2, 9 De iis qui confugium quaerunt.
- 4, 5 De civili matrimonii rigore.
- 5, 4 De testamento episcoporum et monachorum.
- 6, 11 De Judaeis, paganizantibus et haereticis.
- (Appendix, title 4), De ordinatione episcoporum et presbyterorum.

II. Modern references: —

- ADENEY, Greek and Eastern churches, p. 40, New York, 1908.
- ALLARD, *Le christianisme et l'empire romain*², Paris, 1897.
- AMOS, Law (in vol. ii, Smith's "Dictionary of Christian antiquities").
- BALMES, European civilization, ch. 14-19.
- BAVIERA, Concetto e limiti dell' influenza del Cristianesimo sul diritto romano (*Mélanges P. F. Girard*, vol. i, pp. 67-121, Paris, 1912).
- BINGHAM, *Antiq. of the Christian Church*, vol. i, book 5.
- BOYD, *The ecclesiastical edicts of the Theodosian Code*, New York, 1905 (*Columbia Univ. Studies in Polit. Science*, vol. 24, (§953) no. 2).
- COLEMAN, *Constantine the Great and Christianity*, New York, 1914 (vol. 60, no. 1, of *Columbia Univ. Studies in History*, etc.).
- DILL, *Roman society in the last century of the Western Empire*², pp. 3-73, London, 1906.
- GIBBONS, *Decline and fall of the Roman empire*, ch. 20.
- GIBSON, *Influence of Christianity on the law of Rome*, 31 *Law Mag. and Rev.*, p. 385.
- GIESELER, *Church history*, § 105.
- GLOVER, *The conflict of religions in the Early Roman Empire*³, London, 1909.
- GULRICKE, *Church history*, § 69.
- LECKY, *History of European morals*, vol. ii, pp. 1-90.
- MERIVALE, *The conversion of the Roman Empire*, London, 1864 (*Lecture 4*).
- MEYSENBERG, *De Christianae religionis vi et effectu in jus civile*, Göttingen, 1828.
- MILMAN, *History of Latin Christianity*, book 3, ch. 5.
- MOREY, *Roman law*, pp. 143-53.
- OZANAM, *Civilization in the 5th century*, vol. i, ch. 5.

RICCOBONO, Influence du christianisme dans la codification de Justinien (in 5 *Rivista di Scienza*, no. ix-1, 1909).

RHOER, Dissertatione d'effectu religionis Christianae in jurisprudentiam Romanam, Groningen, 1776.

SCHOFF, History of the Christian Church, vol. ii, ch. 3.

SESAN, Kirche und Staat im röm.-byzantinischen Reiche seit Konstantin dem Grossen und bis zum Falle Konstantinopels (1911).

TROPLONG, De l'influence du christianisme sur le droit civil des romains, Paris, 1868.

III. See also *infra* § 1026; *supra* vol. i, §§ 144-53.

§ 954 Roman law schools and legal education: references.

I. Texts of Roman law:—

(a) Ante-Justinian:

COD. THEOD. 6, 21 De professoribus, etc.

— 13, 3 De medicis et professoribus.

— 14, 9 De studiis liberalibus urbis Romae et Constantinop.

(b) Justinian:

CODE, 2, 7 De advocatis divers. judiciorum.

— 10, 50 (49) Qui aetate se excusent, 1.

— 10, 53 (52) De professoribus et medicis.

— 11, 19 (18) De studiis liberalibus urbis Romae et Constantinop.

— 11, 22 (21) De metropoli Beryto.

CONST. Omnem (one of the prefaces to the **DIGEST**—Eng. transl. by **Monro**,

"Digest," vol. i, pp. xviii-xxiv, and also by **Ortolan** "History of Roman law," § 573).

(c) Post-Justinian:

BAS. 6, 26 De archiatri et professoribus, etc.

— 8, 1 De postulando (especially fr. 26).

— 54, 2 . . . De his, qui studiorum causa in aliena civitate degunt.

II. Modern references:—

AMOS, Roman law, pp. 102-4.

GIRARD, L'enseignement du droit romain (in *Nouvelle revue historique de droit français et étranger*, Sept.-Oct. 1912); also, The teaching of Roman law, 13 *Journal of Comparative Legisl. N. S.*, part 2, p. 171 (no. 28, July, 1913).

- GRELLET-DUMAZEAU, *Le barreau romain*, Paris, 1851.
- HUNTER, *Roman law*⁴, pp. 79-80.
- JONES, The problem of the law school, 1 *Calif. Law Review*, p. 9.
- KRUEGER, *Quellen*, etc., pp. 347-53.
- LOBINGIER, The value and place of Roman law in the technical curriculum, 1 *So. Law Qt.*, p. 117.
- MUIRHEAD, *Roman law*², pp. 400-401.
- ORTOLAN (Prichard and Nasmith, transl.), *History of Roman law*, §§ 566-75.
- RIVOLTA, *La scuola delli leggi romane in Ravenna*.
- ROBY, *Introduction to Roman law*, pp. xxvi-xxvii.
- STEPHENSON, *History of Roman law*, pp. 229-301, Boston, 1912.
- THE shortcomings of the case method, 25 *Green Bag*, p. 467.
- WALDEN, *The universities of ancient Greece*, New York, 1909.
- III. See also *infra* §§ 1019, 1024; *supra* vol. i, §§ 154-65; vol. ii, § 906.

Post-Justinian Roman law: references.

§ 955

I. Texts:—

(a) Theophilus' Institutes:

FERRINI, *Institutionum graeca paraphrasis Theophilo*, etc., 2 vols., Berlin, 1897 (Greek text with Latin translation).¹

REITZ (ed. SCHRADER), *Theophili paraphrasis Justiniani Institutionum*, Amsterdam, 1860. (A Latin translation together with the text of the *Inst. of Justinian*.)

WUSTERMAN (German transl. of *Theophilus' Inst.*), 1823.

¹ FREGIER, *Paraphrase des Instituts de Justinien par Théophile* (French transl. of *Theophilus' Inst.*), Paris, 1847.

(b) Ecloga:

ZACHARIAE (VON LINGENTHAL), *Collectio librorum juris Graeco-Romani ineditorum*, pp. 1-52, "Ecloga Leonis et Constantini," Leipzig, 1852 (Greek text).²

— *Prochiron* (*Prolegomena*, ch. 2), Heidelberg, 1837. (Contains Latin transl. of preface of *Ecloga* and a Latin list of its titles.)

(c) Prochiron:

ZACHARIAE, etc., *Imperatorum Basilii, Constantini et Leonis Prochiron*, Heidel-

— Kritisch. Jahrbuch für deutsch. Rechtswissenschaft, 1844, p. 794; 1847, p. 581.

— Geschichte des griechisch-römisch. Rechts³, Berlin,

1892. (French translation of the same, *Hist. du droit privé gréco-romain*, by LAUTH, 1870.)

IV. See also *infra* §956; *supra* vol. i, §§ 166–83.

§ 956 Roman law of the Later Empire: references.

I. Texts of Roman law: —

(a) Ante-Justinian:

COD. THEOD. 1, titles 5, 8–11, 13, 15–17, 28. These treat of the office of praefectus praetorio, quaestor, magister officiorum, comes sacrarum largitionum, comes rei privatae, comes Orientis, vicarius, rector, defensor, senatus.

— 6, titles 2–9, 16, 19–20, 22, 37–8. These treat of the office or dignity of senator, praetor, quaestor, consul, praefectus, magister militum, patricius, praefectus urbi or praetorio, praepositus sacri cubiculi, magister officiorum, comes sacrarum largitionum, comes rei privatae, comes sacri palatii, consularis, praeses, eques, perfectissimus.

— 15, 4 De imaginibus imperialibus.

NOV. VALENTINIAN. 11 De honoratis, etc. (Mommsen–

Meyer edition of Cod. Theod., vol. ii, p. 93).

— 22, De officio praefecti praetorio. (2 Mommsen–Meyer, Cod. Theod., p. 113.)

(b) Justinian:

CODE, 1, titles 26–7, 29–34, 36–42, 44. These treat of the office of praefectus praetorio, magister militum, quaestor, magister officiorum, comes sacrarum largitionum, comes rei privatae, comes sacri patrimonii, comes Orientis, praefectus Augustalis, vicarius, praetor, rector, praefectus annonae.

— 3, 24 Ubi senatores vel clarissimi, etc.

— 11, 9 (8) De vestibus . . . auratis, etc.

— 11, 20 (19) De honoratorum vehiculo.

— 11, 21 (20) De privilegiis urbis Constantinop.

— 11, 66 (65) De fundis rei privatae . . . divinae domus.

— 11, 67 (66) *De fundis . . . rei domenicæ*.

— 12, titles 1-6, 8-10, 12-13, 31 (32), 52 (53), 53 (54). These treat of the office or dignity of praetor, consul, praefectus, magister militum, patricius, praefectus praetorio, praepositus sacri cubiculi, quaestor, magister officiorum, comes sacrarum largitionum, magister scriniorum, comes consistorianus, comes rei militaris, comes provinciae, equestrian, apparitores praefectus praetorio or praefectus urbi.

NOVELS 13, 24-30, 31, 62, 71, 102, 103-5. These treat of the office or dignity of praetor, comes, moderator, proconsul, praeses, senator, illustris, clarissimus, consul.

— 134 *Ut nulli iudicium liceat habere loci servatorum*.

(c) **Post-Justinian:**

EPANAGOGA, titles 2, 4-6.

These treat of the office of emperor, praefectus urbi,

quaestor, and other magistrates.

BAS. 2, 5 *De precibus imperatori*, etc.

— 2, 6 *De principibus et . . . constitutionibus, et rescriptis*, etc.

— 6, titles 2-6, 8-19, 21, 23, 25-31, 33-4. These treat of the office or dignity of consul, proconsul, legatus, praeses, praefectus urbi, praefectus praetorio, praefectus vigilum, praetor plebis, quaestor, praetor, comes, moderator, defensor, vicarius, procurator, rationalis, logotheta, praepositus sacri cubiculi, notarii, archiatri, professor, domesticus sacrarum scriniorum, protector, agens, curator cursus, palatinus, decanus, mensor, eques.

HEXABIBLOS, Appendix, title 1 *De dignitatibus*.

II. See also supra §§ 951, 952, 955; infra § 1021; supra vol. i, §§ 120-23, 184; vol. ii, §§ 873-907.

Abyssinia: references.

ADENEY, *Greek and Eastern churches*, pp. 296, 615, New York, 1908.

BACHMANN, *Corpus juris Abessinorum, textum aethi-*

opicum arabicumque cum versione latina, vol. 1, 1890.

BUTLER, *Abyssinian church* (in 1 *Encycl. Britan.*^u, pp. 95-6).

§ 957

- CONNTI-ROSSINI, *I loggo e la legge dei Loggo Sardo*, 1904. (A summary of the customary law of northern Abyssinia.)
- GLEICHEN, *Abyssinia* (in 1 *Encycl. Britan.*¹, pp. 82-95).
- GUIDI, "Fetha Nagast" or "Legislazione dei re, codice ecclesiastico e civile di Abissinia," 1897 (Ethiopian text).
- Idem, *tradotto e annotato*, 1899. (Italian translation.)
- SEE also *supra* vol. i, § 186.¹

§ 958 Mohammedan countries: references.

(a) In general:

- ABDUL MAJID, *A historical study of Mohammedan law*, 27 *Law Quart. Rev.*, p. 28, 28 *Law Quart. Rev.*, p. 355.
- ABDUR RAHIM, *Mohammedan jurisprudence*, London, 1911.
- AMOS, *Roman law*, pp. 406-16.
- BAILLÉ, *Digest of Mohammedan law*, 2 vols., London, 1875-87.
- BUKHARI (Hondas and Marcel, transl.), *Les traditions islamiques*, Paris, 1906.
- COLQUHOUN, *Roman law*, § 84.
- GOLDZIEHER, *Principles of law in Islam* (in 8 *Historians' History of the World*, ch. xii, New York, 1907).
- *Muhammedanische Studien*, I and II, Halle, 1889-90.
- *Zahiriten*, Leipzig, 1884.
- HUGHES, *Dictionary of Islam*, pp. 285 et seq., London, 1896.
- ION, *Roman law and Mohammedan jurisprudence*, 6 *Michigan Law Rev.*, pp. 44, 187, 371 (1908).
- MACDONALD, *Mohammedan law* (in 17 *Encycl. Britan.*¹, pp. 414-17).
- *Development of Muslim theology*, pp. 65 et seq., New York, 1903.
- RATTIGAN, *Scientific study of Mohammedan law*, 17 *Law Quart. Rev.*, p. 402.
- REMSEY, *Family law of England and Islam*, 7 *Law Mag. and Rev.*, p. 241.
- SACHAU, *Zur ältesten Geschichte des muhammedan. Rechts*, Vienna, 1870.
- *Muhammedan. Recht*, Berlin, 1897.
- SEE also *infra* (a)-(g); *supra* vol. i, §§ 187-92.

¹ Especially footnotes,⁴ pp. 177-178 of vol. i.

(b) **Turkey:**

I. Codes, etc., and translations:—

ARISTARCHI, *Législation ottomane*, 7 vols., Paris 1883-88 (contains Ottoman codes prior to 1880, including the Civil Code).

COMMERCIAL LAWS of the world, "Turkey," London, 1911 et seq.

DUSTUR, in 8 vols. (Turkish text of Ottoman codes, etc. 1866-86).¹

KODIKES OTTOMANIKOI (Greek translation of many texts of the Dustur).

MACRIDÈS, *Code pénal ottoman*, Constantinople, 1883.

MEYSONNASSE, *Code civil mussulman*, etc., Paris, 1898.

ONGLEY, *Ottoman Land Code* transl. from the Turkish (revised by MILLER), London, 1892.

PADEL, *Commercial law of Turkey*.

PIAT, *Code de commerce ottoman* (in Arabic), Beirut, 1876.

PIST, *Code de commerce ottoman* (in French), Paris, 1876.²

VITHYNOS, *Code ottoman d'instruction criminelle*, Constantinople, 1884.

¹ BISHOP, *Reform in the Turkish Judicial system*, 12 American Bar Assn. Journal, p. 248.

HUDSON, *Law Reform in Turkey*, 13 American Bar Assn. Journal, pp. 5-8.

— A visit to Turkish Law Schools, 6 Am. Law School Rev., p. 76.

² SEE also supra vol. i, pp. 182-3, footnotes 36 A and 42.

SOUSA, *The capitulatory régime of Turkey*, Baltimore, 1933.

WALPOLE, *Ottoman Penal Code*, London, 1889.

YOUNG, *Corps de droit ottoman*, 8 vols., Oxford, 1906 (vols. vi and vii contain the various Ottoman codes).

II. Other references:—

CHIIHA, *Traité de la propriété immobilière en droit ottoman*, Cairo, 1906.

JEHAY, *De la situation légale des sujets ottomans non-mussulmans*, Brussels, 1906.

RAUZAS, *Le régime des capitulations dans l'empire ottoman*³, Paris, 1910.

III. See also supra "Mohammedan law, in general."

(c) **Cyprus:**

I. Codes, etc., and translations:—

OTTOMAN CIVIL CODE (Medjellé), English translations by GRIGSBY, in 1895, TYSER, in 1901. (Articles 1613-1851, principally on procedure, are not in use in Cyprus.)

— COMMERCIAL CODE (see supra "Turkey, codes, etc.," and supra vol. i, § 189).

— MARITIME CODE (see supra, Id.)

— PENAL CODE, English transl. by BUCKNILL, with amendments in force in Cyprus, London, 1914.

³ SEE also supra vol. i, pp. 182-3, footnotes 36 A and 42.

(§958) HUTCHINSON and FISHER,
Statute law of Cyprus, 1878
-1906, London, 1906.

CYPRUS LAW REPORTS, 1883
et seq.

II. Other references:—

BARTRAM, Law of wills and
succession, 12 Journ. Soc.
Comp. Leg. N. S., pp. 324-
9.

GRIGSBY, Cyprus law and
its administration, 12 Law
Quart. Rev., pp. 67-75.

HUBERICH, Cyprus (in 16
Commercial Laws of the
World, pp. 642 et seq.,
London, 1912).

TISSOT, Cyprus; its medieval
jurisprudence and modern
legislation, 5 Law Mag. and
Rev., p. 525.

III. See also supra (a) and (b).

(d) Egypt:

AMOS, Une question de pro-
cédure civile égyptienne, le
rôle perpétuel, Cairo, 1913.
— Roman law, p. 462.

ARMINJON, Le code civil et
l'Égypte (in Le code civil —
livre du centenaire, 1804-
1904, vol. ii, pp. 735-62).¹

BRISCOE, Courts of Egypt and
the Soudan, 34 Law Mag.
and Rev., p. 294.

COMMERCIAL LAWS of the

world, "Egypt," London,
1911 et seq.

GOUDY, Administration of
justice in Egypt, 23 Law
Quart. Rev., p. 409.

GRANDMOULIN, Traité élé-
mentaire de droit civil in-
digène et mixte, 2 vols.,
Paris, 1912.

LAMBA, Dictionnaire des codes
égyptiens, Paris, 1888.

MIXED COURTS in Egypt, 47
Law Journal, p. 302.

SEE also supra (a) and (b):²

(e) India:

ABDUR RAHMAN, Institutes
of Mussulman law, Cal-
cutta, 1907.

COMMERCIAL LAWS of the
World, vol. xvi, "India,"
pp. 1, 7, London, 1912.

MARKBY, Hindu and Mahom-
medan law, Oxford, 1906.

MULLA, Principles of Mo-
hammedan law, Bombay,
1905.

SEE also supra (a); vol. i,
§ 269, last note.

(f) Philippine Islands:

MCCLINTOCK, Mohammedan
law in our Philippine pos-
sessions, 21 Green Bag, p.
319.

(g) Algeria:

BERG, Principes du droit mus-
sulman, Algiers, 1896.

¹ BRINTON, The mixed courts of Egypt, New Haven, 1930.

² SEE also supra vol. i, p. 184, footnote 50 A: Id., p. 185, footnote 57 A.

Malta: references.

§ 959

I. Codes, etc., and translations:—

RACCOLTA di leggi, etc., 1784–1813, Malta, 1862.

ORDINANCES, etc., of Malta, 1813 to date. (Official publication of texts in Italian and English.)

BILLIET, *Lois civiles de Malte*, Paris, 1898 (French transl.).

II. Reports of cases:—

COLLEZIONE di decisioni dei tribunali, 1839–44.

DECISIONI scelte delle corti superiori, 1847–49.

COLLEZIONE di decisioni dei tribunali superiori, 1854 to date.

III. Other references:—

DEBONO, *Storia della legislazione in Malta*, Malta, 1897.

— Il fallimento nel diritto maltese, Malta, 1907.

ENCYCL. Britan.¹¹, vol. 17, p. 510.

HUBERICH, Malta (in 15 Commercial Laws of the World, pp. 186–234, London, 1912).

MIFSUD, Guida al corso di procedura penale maltese, 1907.

PAGE, Guide to the laws and regulations of Malta, Malta, 1892.

SEE also supra vol. i, § 193.

Balkan States: references.

§ 960

(a) In general:

AMOS, *Rom. law*, pp. 404, 405.

BRYCE, *Studies in history*, etc., p. 94.

SEE also supra vol. i, § 195.

(b) Bulgaria:

ALIMENA, *Il primo codice penale bulgaro*, Turin, 1898.

BOBTSHEFF, *Bulgarian law* (in Bulgarian), 1897–1902.

— *Bulgarian criminal procedure* (in Bulgarian), 1900.

— *Bulgarian civ. procedure* (in Bulgarian), 1897–1903.

COMMERCIAL LAWS of the

world, "Bulgaria," London, 1911 et seq.

PENAL CODE of 1896 (text), Berlin, 1897.

(c) Greece:

BARILLEAU, *Des sources du droit grec*, Paris, 1883.

BORCHARD, *Bibliog. of international law and Continental law*, Washington, 1913.

BOURCHIER, *Greece*, (in 12 *Encycl. Britan.*¹¹, p. 432).

CALLIGAS, *System of Roman law* (in Greek), 5 vols.

- (§960) CODE, Penal, and Code of Criminal Procedure for the kingdom of Greece (in Greek), Athens, 1875.
- COMMERCIAL LAWS of the world, "Greece," London, 1911 et seq.
- GOUDY, Roman law, (in 23 Encycl. Britan.¹¹, p. 575).
- HEIMBACH, Hexabiblos, Leipzig, 1851.
- HRUZA, Geschichte des griechischen und röm. Familienrechts, Leipzig, 1892.
- HUNTER, Roman law⁴, p. 97.
- MACKELDEV (Dropsie, transl.), Roman law¹⁴, § 87.
- MUIRHEAD, Roman law², p. 403.
- PAPARRIGOPOULO, Greek civil law (in Greek).
- RHALLY, Code civil de la Grèce (French translation), Athens, 1857.¹
- SZANIO, Griechisches Bürgerrecht, Freiburg, 1892.
- SOHM (Ledlie³), Roman law, p. 133.
- (d) **Montenegro:**
- BOGISIC, Code civil gén. pour Monténégro (French transl.), Paris, 1892.
- Bürgerl. Gesetzbuch für Montenegro (German transl.), Berlin, 1893.
- Civil code for Montenegro (Serb text), Paris, 1888.
- BOURCHIER, Montenegro (in 18 Encycl. Britan.¹¹, p. 770).
- COMMERCIAL LAWS of the World, "Montenegro," London, 1911 et seq.
- DARESTE, Code civil monténégrin, Paris, 1888 (4 Law Quart. Rev., pp. 372, 465, 9 Law Quart. Rev., p. 22).
- DICKEL, Das neue bürgerl. Gesetzbuch von Montenegro, Marburg, 1889.
- (French transl. by BRISSAUD), Étude sur le nouveau code civil du Monténégro.
- PHILLIPS, The code of property of Montenegro.
- (e) **Roumania:**
- ALEXANDRESCO, Droit ancien et moderne de la Roumanie.
- BLARAMBERG, Institutions, lois et mœurs de la Roumanie depuis les temps les plus reculés jusqu'à nos jours, Bucharest, 1886.
- BLUMENTHAL, Code de commerce de Roumanie (French transl.), Paris, 1889.
- BOHL, Code de commerce roumain (French transl.), Paris, 1895.
- Droit civil roumain, Paris, 1897.
- BOROSCHNAG, Handels-Gesetzbuch, das rumänische v. 1887, aus den rumänisch.
- ¹ SHERMAN, Charles P., The Basilica—a 9th century Roman Law code which became the first Civil Code of Greece a 1,000 years later, 66 Univ. of Penn. Law Review, p. 363.
- The Hexabiblos—a code of the Roman Empire still in use, 3 Southern Law Quarterly, p. 127.

- (German transl.), Buchar-
est, 1888.
- CODICE penale diu 1874, edi-
tione oficiala, Bucharest,
1878.
- COMMERCIAL LAWS of the
World, "Roumania," Lon-
don, 1911 et seq.
- DISSESCOU, L'influence du
code civil français en Rou-
manie (in Le code civil —
livre du centenaire, 1804-
1904, vol. ii, pp. 849-74).
- FRATOSTINEANU, Codice de
comerciu adnotat, Buchar-
est, 1892.
- Codicele penal adnotat,
Bucharest, 1892.
- Codicele de procedura
criminala, codicele silvic,
etc., Bucharest, 1892.
- NEGULESCU, Histoire du droit
et des institutions de la
Roumanie, Paris, 1898.
- (f) **Serbia:**
- BOGISIC, Civil code of Servia
(Serb text), Paris, 1888.
- COMMERCIAL LAWS of the
World, "Servia," London,
1911 et seq.
- LEITMAIER, Serbischer Civil-
prozess, Vienna, 1885.
- Serbischer Strafprozess,
Vienna, 1884.
- PERITCH, Ein neues Werk
auf dem Felde der Kodifi-
kation des Privatrechts,
Berlin, 1911.
- PUBLIC Law (in Serb),
1907.

Russia: references.

§ 961

**I. Codes, etc., and transla-
tions: —**

- COMMERCIAL LAWS of the
World, "Russia," London,
1911 et seq.
- EBERLIN, Code pénal russe de
1902, Paris, 1906 (in French).
- FOUCHER, Code civil de Russie,
Paris, 1841 (in French).
- KAPNIST, Code d'organisa-
tion judiciaire russe, Paris,
1893 (in French).
- KILBANSKI, Codex des Civil-
rechts, Berlin, 1902 (in
German).

- TCHERNOW, Code de com-
merce russe, Paris, 1898
(in French).¹

II. Other references: —

- ALASKA Reports, 14 Jurid.
Rev. (Sept. 1902).
- BALZER, Corpus Juris Polon-
ici, 3 vols., Cracow, 1906.
- BORCHARD, Bib. of int. law
and Cont. law, Wash., 1913.
- BRIBOWSKI, Das Staatsrecht
des russischen Reiches,
Tübingen, 1912.

¹ CIVIL CODES of Soviet Russia issued in 1922 (French translation.
Institut de droit comparé of University of Lyons. See 43 Law Quart.
Rev., p. 168).

BRYCE, *Studies in hist. and jurispr.*, p. 93, New York, '01.

GOETZ, *Das russ. Recht*, 3 vols.

KOVALEVSKY, *Modern customs and ancient laws of Russia*, London, 1891.

— *Early Slavonic law*, 19 *Law Quart. Rev.*, 76.¹

LEHR, *Éléments de droit civil russe*, 2 vols., Paris, 1877.

RASTORGUEFF, *The bar in Russia*, 37 *Law Mag. and Rev.*, 70 (1911).²

SMITHERS, *Russian Civil law*, 52 *Am. Law Rev.*, p. 137.

TODARO DELLA GALLIA, *Istituzione di diritto civile russo*, Turin, 1895.³

III. See also *supra* vol. i, §§ 196-200, footnote.³⁰

§ 962 Italy: references.

I. Codes, etc., and translations:—

COMMERCIAL LAWS of the World, "Italy," London, 1911 et seq.

PRUDHOMME, *Code civil italien*, Paris, 1896 (French transl.).

— *Code de la marine marchande italien*, Paris, 1896 (French transl.).

TURREL, *Code pénal italien*, Paris, 1890 (French transl.).

— *Code de commerce italien*, Paris, 1892.

II. Other references:—

A GENERAL SURVEY (vol. i, *Continental Leg. Hist. Ser.*, Boston, 1912), pp. 24-36.
Ch. ii, "Italy," pp. 87-199.

AMOS, *Rom. law*, pp. 416-26.

BARTOLUS (Beale, transl.), *Conflict of laws*, Cambridge, 1914.

¹ KOMAR, *The legal system of Soviet Russia*, 10 *American Bar Assn. Journal*, p. 349; 12 *Id.*, p. 434.

² ROBBINS, *The Soviet legal system*, 19 *American Bar Assn. Journal*, p. 657 (1933).

SHAFROTH, *The judicial system of Soviet Russia*, 12 *American Bar Assn. Journal*, p. 789 (1926).

³ ZELITCH, *Soviet administration of criminal law*, Univ. of Penn. Press, Philadelphia, 1932.

BORCHARD, *Bib. of int. law and Cont. law*, Wash., 1913.

CALISSE (Lisle, translator), *History of Italian law* (vol. viii, *Cont. Legal Hist. Series*).

CAMOUS, *Il codice civile italiano co-ordinato alle leggi affini*, etc. (1894).

CANCIANI, *Barbarorum leges antiqui*, 5 vols., Venice, 1781-92.

CARLYLE, *Medieval political theory*, vol. ii, pp. 5-90, London, 1909.

CHARMONT, *La renaissance du droit naturel*, Paris, 1910.

CHIRONI, *Le code civil et son influence en Italie* (in "Le code civil—liv. du centenaire, 1804-1904, vol. ii, pp. 763-80).

COLQUHOUN, *Roman law*, §§ 104-80.

- CONRAT (COHN), *Das Florentiner Rechtsbuch*, aus der Glossatorenzeit, Berlin, 1882.
- CONST. DISPERSAE, 7 and 8 (in appendix to vol. iii, "Novels," of "Corpus Juris Civilis" — (see supra § 952).
- CORPUS JURIS CIVILIS, see supra § 952.
- COX-SINCLAIR, *Requirements for admission to the Bar in Great Britain and the Continent of Europe*, 1910 American Bar Proceedings, p. 809.
- CRIVELLARI, *Il codice penale per il regno d'Italia interpretato sulla scorta della dottrina, dei fonti della legislazione comparata*, etc. (1890-98).
- CROCE, *La philosophie de Jean Baptiste Vico*, Paris, 1913 (French transl. by Buriot-Darsiles and Bourguin).
- ENCICLOPEDIA giuridica italiana, Naples, 1884 to date.
- FERRARI, *Documenti greci medioevali di diritto privato dell'Italia meridionale*, Leipzig, 1910 (Byzantine Roman law in Italy to 1231). See also 35 *Revue générale de droit*, p. 184.
- *La degenerazione della stipulatio nel diritto intermedio*, etc., Venice, 1910.
- (Published also in *Recueil* (§ 962) de l'Institut vénétien des sciences, lettres, et arts, 1909-10.)
- FLICKER, *Rechtsgeschichte Italiens*, 4 vols., Innsbruck, 1868-74.
- FITTING, *Die Anfänge der Rechtsschule zu Bologna*, Berlin, 1888.
- *Summa codicis des Irnerius*, Berlin, 1894.
- *Questiones juris des Irnerius*, Berlin, 1894.
- FREUNDT, *Das Weselrecht der Post-glossatoren* (1909).
- GAVET, *Sources de l'histoire*, etc., pp. 696-8, Paris, 1899.
- GAY, *L'Italie méridionale et l'empire byzantin*, 867-1071 (1904).
- GIRARD, *Manuel de droit romain* ⁵, pp. 84-5.
- GREAT JURISTS of the world (vol. ii, *Cont. Legal Hist. Series*, Boston, 1914), pp. 45-82, 345-89, 505-16.
- HADLEY, *Roman law*, pp. 25-50.
- HUC, *Le code civil italien et le code Napoléon*, Paris, 1866.
- HUNTER, *Roman law* ⁴, pp. 98-9.
- LANSBERG, *Die questiones des Azo*, Freiburg, 1888.
- LATTES, *La formazione del codice civile estense*, Turin,

- (§962) 1912 (Code of Duchy of Modena, promulgated 1851).
- LEE, The barbarian codes, 9 Green Bag, p. 428.
- MACKELDEY (Dropsie, tr.), Roman law¹⁴, §§ 68, 88-93.
- MACKENZIE, Roman law⁷, pp. 35-9.
- MAITLAND, *Magistri Vacarii summa de matrimonio* (in "Collected Papers," vol. iii, pp. 87-105, Cambridge, 1911).
- MATTIROLO, *Trattato di diritto civile italiano*⁴, 6 vols., Turin, 1892-98.
- MILDMAY, Legal education in Italy, 29 Law Mag. and Rev., p. 285.
- MOREY, Roman law, pp. 182-3.
- MUIRHEAD, Roman law², pp. 403-7.
- ORTOLAN (Prichard and Nasmith, transl.), *History of Roman law*, §§ 596-633, London, 1871.
- PACIFICI-MAZZONI, *Codice civile italiano commentato con la legge romana*, etc., 6 vols., Florence, 1890-92.
- PANDECTS, *Discovery of*, 12 Green Bag, p. 184.
- PARDESSUS, *Lois maritimes*, etc., vol. ii, pp. 1-360 (6 vols., Paris, 1828-45).
- PERTILE, *Storia del diritto italiano*², 9 vols., Turin, 1896-1903.
- PESCATORE, *Kritische Studien* (Irnerius), pp. 48-62, 82-97, 111-22, 191-202, Greifswald, 1896.
- Id. (*Glossators*), pp. 21-203.
- PHILLIPSON, *The great jurists of the world*, XVIII. Andrea Alciati and his predecessors, 13 *Journal of Compar. Legisl.* N. S., part 2, p. 322 (no. 28, July, 1913).
- PLATON, *Pour le droit naturel*, Paris, 1911.
- POST-JUSTINIAN or Byzantine Roman law, see *supra* § 955.
- PRUDHOMME, *Introduction* (in his *Code civil italien*, pp. xvii-li, Paris, 1896).
- RAIKES, *The maritime codes of Italy*, London, 1900.
- *Italian maritime law*, 11 *Law Mag. and Rev.*, pp. 39, 168, 256, 366; 12 *Id.*, pp. 57, 67, 277, 369; 13 *Id.*, pp. 53, 144, 245, 374; 14 *Id.*, pp. 33, 173, 256.
- *Penal law in Italy*, etc., 12 *Law Mag. and Rev.*, p. 86.
- REGISTER, *Notes on the history of commerce*, etc., 33 *Canadian Law Times*, 1078.
- RIVALTA, *Dispute celebri* (1895).
- RIVOLTA, *La scuola delli leggi in Ravenna*.

- ROBY, Introduction to the Digest, p. ccxxxvii, Cambridge, 1886.
- ROMAN Law and the school of Bologna, 14 Law Mag. and Rev., 88.
- SALKOWSKI (Whitefield, transl.), Roman law, § 12, pp. 74-5.
- SAVIGNY, Geschichte des röm. Rechts², vol. i, ch. v, iv-viii, and ch. vi; vol. ii, ch. x-xiv; vol. iii, ch. xviii-xxv; vol. iv.
- SERAFINI, Istituzioni di diritto romano comparato al diritto civile patrio, vol. i, Florence, 1892.
- SICILIANO-VILLANUEVA, Diritto bizantino, Milan, 1906.
- SOHM (Ledlie³), Roman law, pp. 133-8.
- SOLMI, Storia del diritto italiano, Milan, 1908.
- TRAVERS-TWISS, The 12th century — the age of scientific judicial procedure, 19 Law Mag. and Rev., pp. 181, 196.
- TRIAL by jury in Italy, 19 Law Mag. and Rev., p. 175.
- TURREL, Introduction (in his code pénal italien, Paris, 1890).
- VINOGRADOFF, Roman law in medieval Europe, pp. 32-58, New York, 1909.
- WALSH, The 13th century — greatest of centuries², pp. 1-78, 350-75, New York, 1909.
- WILLIAMS, Dante as a jurist, 22 Law Mag. and Rev., p. 84.
- Law in the Emblem writers, 27 Law Mag. and Rev., p. 257.
- Legal etymology, 28 Law Mag. and Rev., p. 257.
- Comparative Roman law, 30 Law Mag. and Rev., pp. 70, 149.
- WOOLF, Bartolus of Sassoferato, Cambridge, 1913.
- III. San Marino: —**
- COMMERCIAL LAWS of the world, "San Marino," London, 1911 et seq.
- DAGUIN, La république de Saint Marin, ses institutions et ses lois, Paris, 1904.
- PAPPAFAVA, Das Notariat in San Marino, Innsbruck, 1911.
- IV. See also supra vol. i, §§ 201-24.**

Canon Law: references.

§ 963

I. In general: —

(a) Texts:¹

CORPUS JURIS CANONICI¹

¹ CODEX JURIS CANONICI Pii X Pontificis Maximi jussu digestus, Benedicti Papae auctoritate promulgatus. Praefatione, fontium annotatione et indice analytico-alphabetico ab emo. Petro Card. Gasparri auctus, pp. 448, Rome and New York, Kenedy and Sons, 1918. (It was begun under Pope Pius X, completed under Benedict XV and by him promulgated to go into effect May 19, 1918. This, the library edition, is the only one useful for scientific purposes).

² For mode of citation, see *infra* Appendix II, pp. 321-4.

(Richter, ed. Friedberg), 2d ed., 2 vols., Leipzig, 1879-81.

- (§963) — (ed. Naldi), 2 vols., London, 1661.
 (Vol. ii contains the Institutes of Lancelot.)
 SEE also (b) and II.
- (b) **Other references:**
- A GENERAL SURVEY (vol. i of Continental Legal History Series, Boston, 1912), partix, "Canon Law," pp. 705-25.
- AYER, Legitimation and marriage in Roman and Canon Law, 16 Harv. Law Rev., pp. 22-42.
- BLUHME, System des geltenden Kirchenrechts in Deutschland, Bonn, 1868.
- BORCHARD, Bib. of int. law and Cont. law, Wash., 1913.
- CARLYLE, Medieval political theory, vol. i, pp. 81-290, vol. ii, pp. 93-254, London, 1903-09.
- CATHOLIC ENCYCL. (16 vols., N. Y., 1907-14), vol. ix, pp. 56-68: "Law, canon" and "Law, civil."
- COLQUHOUN, Roman law, §§ 182-223.
- COUNCIL OF TRENT, Marriage laws and the, 47 Canada Law Journal, p. 481 (on the influence in Canada of the "Ne temere" decree).
- CYCLOPEDIA of American law and procedure ("CYC"), v. 34, "Religious societies."
- ¹ HAZELTINE, Roman and Canon Law in the Middle Ages (see vol. v, Cambridge Medieval Hist., chap. 21).
- ² HISTOIRE des collections canoniques en Occident ... jusqu' au Décret de Gratien, 2 vols., Paris, 1932.
- DIBDIN, Roman Canon Law in England, London, 1912.
- DODD, History of Canon Law, London, 1884.
- FOURNIER, Les origines de la collection canonique dite Anselmo dedicata (in Mélanges P. F. Girard, vol. i, pp. 475-98, Paris, 1912).
- FULBECKE, Parallel of Civil, Canon, and Common Law, 2 parts, London, 1601-02.
- GALANTE, Fontes juris canonici selecti, Oeniponte, 1906.
- GAVET, Sources de l'histoire, etc., pp. 330-414, 664 (Canon Law), Paris, 1899.¹
- HIRSCHFELD, Law of divorce in England and Germany, 13 Law Quart. Rev., p. 395,²
- HOLMES, Early English equity, 1 Law Quart. Rev., p. 162.
- JURIS ECCLESIASTICI Graecorum historia et monumenta jussu Pii IX Pont. Max., 2 vols., Rome, 1864 (contains the Canons of the Apostles, etc.).
- LANGDELL, Common Law pleading compared with that in the Civil and Canon Law 11 Harv. Law Rev., pp. 139-44, 155-7.
- LICHENSTEIN, Date of separation of ecclesiastical and lay jurisdiction in England, 3 Ill. Law Rev., p. 347.

- LOENING, *Geschichte des deutschen Kirchenrechts* (1878).
- MAASEN, *Geschichte der Quellen und der Literatur des canonischen Rechts*, Gratz, 1870.¹
- MAGOUN, *Roman law and contemporary revelation*, 7 *Green Bag*, p. 132.
- MAITLAND, *Canon Law in the Church of England*, London, 1898.
- *Canon Law* (vol. iii, *Collected papers*, pp. 65-77, Cambridge, 1911).
- *Canon Law in England* (vol. iii, *Id.*, pp. 137-57).
- "Execrabilis" in the *Common Pleas* (vol. iii, *Id.*, pp. 54-64).
- MARSHALL, *Roman law: its study in England*, 26 *Law Mag. and Rev.*, p. 288.
- NAXEV, *Ecclesiastical jurisdiction in England*, 3 *Mich. Law Rev.*, p. 360.
- OGLE, *The Canon Law in medieval England*, London, 1912.
- PILATI, *Origines juris pontificis*.
- PHILLIMORE, *Study of the Civil and Canon Law in its relation to the State, Church, and Universities*, London, 1843.
- *Canon Law* (in 5 *Encycl. Britan.*¹¹, pp. 193-203).
- ¹ MACERLEAN, *Cath. Encycl.* (supplementary volume) "Canon Law according to the Code of Canon Law of Pius X," New York, 1918.
- ² SHERMAN, Charles P., *A brief history of the Roman Imperial Canon law*, 7 *California Law Rev.*, p. 93.
- *A brief history of medieval Roman Canon law*, 39 *Canadian Law Times*, p. 638.
- *A brief history of Roman Canon law in England*, 40 *Canadian Law Times*, pp. 589, 654; 68 *Univ. of Penn. Law Rev.*, p. 238.
- *Marriage in Canon Law*, (§963) 8 *Law Quart. Rev.*, p. 245.
- REICHEL, *Elements of Canon Law*, 2 vols., London, 1887.
- REYNOLDS, *The churchman's guide*, London, 1912.
- SCHULTE, *Die Geschichte der Quellen und Literatur des kanonischen Rechts*, 3 vols., Stuttgart, 1876-80.²
- SMITH and CHEETHAM, *Dictionary of Christian antiquities*, 2 vols., Boston, 1875.
- SOHM, *Kirchenrecht* (1892).
- STEPHENS, *Sketch of the Civil and Canon Law in England*, 35 *Am. Law Reg.*, p. 141.
- STUBBS, *Constitutional hist. of England*, vol. iii, pp. 360-64 (appeals to Rome).
- TARDIF, *Histoire des sources du droit canonique*, Paris, 1887.
- TRAVERS-TWISS, *The 12th century, etc.*, 19 *Law Mag. and Rev.*, pp. 181, 196 (appeals to Rome).
- *Ricardus Angelicus and the 13th century, etc.*, 20 *Law Mag. and Rev.*, p. 1.
- *History of English law before the time of Edward I*, 21 *Law Mag. and Rev.*, p. 5.
- THE *ecclesiastical courts*, 8 *Green Bag*, p. 330.

(§963) — "Ne temere" decree and the Supreme Court (Canada), 48 Canada Law Journal, p. 84 (1912).

THOLOSANUS, Syntagma juris universi (1663). This work compares Roman and Canon Law.

VIDMAR, Introductio corpus juris utriusque, Vienna, 1886.

WHITEHEAD, Church law³, London, 1911.

WHITEWELL, Libraries of a civilian, a canonist, and common lawyer, A.D. 1294, 21 Law Quart. Rev., p. 393.

WILLIAMS, Comparative Roman law, 30 Law Mag. and Rev., pp. 70, 149.

— The Bible in law, 30 Law Mag. and Rev., p. 385.

ZORN, Lehrbuch des Kirchenrechts, Stuttgart, 1888.

(c) See also *infra* II of this section and *supra* § 953.

II. Modern ecclesiastical law manuals, etc.: —

(a) Baptist Churches:

HISCOX, The standard manual for Baptist churches, Philadelphia, 1890.

SOARES, Baptist manual, Philadelphia, 1911.

(b) Congregational Churches:

BARTON, Congregational manual, Oak Park, Illinois, 1911.

BOYNTON, The Congregational way, New York, 1903.

(c) Methodist Episcopal Church:

BUCKLEY, Constitutional and parliamentary history of the M. E. Church, New York, 1912.

DOCTRINE and discipline of the M. E. Church, New York, 1912.

GRUBB, A popular handbook of Methodist law and usage, London, 1913.

MERRILL, Digest of Methodist law, New York, 1912.

(d) Presbyterian Church:

BITTINGER, Presbyterian law and usage, Philadelphia, 1913.

CONSTITUTION of the Presbyterian Church in the U. S. A., Philadelphia, 1912.

ROBERTS, Manual for ruling elders, Philadelphia, 1912.

(e) Protestant Episcopal Church:

DIOCESAN CANONS: see proceedings and journals published by the various dioceses in the U. S. A.

- GENERAL CANONS** of the entire Church: see *Journal of the General Convention of the P. E. Church*, published every three years after each convention.
- GUIDE** to Church law, London, 1898 (Church of England), 1913.
- HALSBURY**, *Laws of England "Ecclesiastical law"* (Church of England, etc.).
- STURGE**, *Points of Church law*, Macmillan, 1907 (Church of England).
- (f) **Roman Catholic Church:**
- HILLING**, *Procedure at the Roman curia*, New York, 1907.
- HINSCHIOS**, *System des Katholischen Kirchenrechts* (1869).
- MARTIN**, *The Roman curia as it now exists*, New York, 1913.
- MATER**, *L'église catholique, sa constitution, etc.*, Paris, 1906.
- SMITH**, *Elements of ecclesiastical law*⁹, New York, 1893.
- STINZING**, *Geschichte der Literatur des römisch-kanonischen Rechts*, Leipzig, 1867.
- WAHRMUND**, *Quellen zur Geschichte des römisch-kanonischen Processes im Mittelalter*, Innsbruck, 1905-7.
- (g) **See also** supra I of this section.
- III. See also** supra vol. i, §§ 225-30.

Austria, Hungary, Czechoslovakia: references.

§ 964

I. Codes, etc., and translations:—

- COMMERCIAL LAWS** of the world, "Austria-Hungary," London, 1911 et seq.
- DE LA GRASSERIE**, *Code de commerce hongrois*, Paris, 1894 (French transl. of Hungarian Code of Commerce).
- HERZFELD**, *Das österreich. allgem. bürgerl. Gesetzbuch*, Leipzig, 1900 (Austrian Civil Code in German).
- MANUALE** codice civile generale austriaco, Innsbruck, 1913 (Austrian Civil Code in Italian).
- SCHEU**, *Das allgem. bürgerl. Gesetzbuch für das Kaiserthum Oesterreich*⁶, Vienna, 1912 (Austrian Civil Code in German).
- SCHEY**, *Oesterreich. allgem. bürgerl. Gesetzbuch*, Vienna, 1896 (Austrian Civil Code in German).

WINIWARTER, Civil Code of Austria, Vienna, 1865 (English transl.).

See also the Latin, Polish, Serb and Slovenian texts of the Austrian Civil Code.

II. Other references:—

A GENERAL SURVEY (vol. i of Continental Legal History Series, pp. 435, 437, and parts ii, iv, and v, Boston, 1912).

BORCHARD, Bib. of int. law and Cont. law, Wash., 1913.

BRYCE, Studies in history and jurisprudence, p. 91, New York, 1901.

COX-SINCLAIR, The Bar in Austria-Hungary, 35 Law Mag. and Rev., p. 42.

DE LA GRASSERIE, Introduction to his Code de commerce hongrois, Paris, 1894.

KRAINZ, System des österreich. allgem. Privatrechts, 2 vols. (1899–1900).

SEMMES, Civil Law and its codification, 9 Am. B. Ass'n Rep. (1886), pp. 212–13.

STUBENRAUCH, Commentar zum österreich. bürgerl. Gesetzbuch, 2 vols., Vienna, 1892.

TISCH, Le code civil autrichien, sa origine, etc., Brussels, 1911.

III. See also supra §962, and infra §979; supra vol. i, §§ 231–2.

§ 965 France: references.

I. Codes, etc., and translations:—

BARRETT, Code Napoleon (English transl.), 2 vols., London, 1811.

CACHARD, The French civil code (Eng. transl.), London, 1895.

COMMERCIAL LAWS of the world, vol. 21, "France," London, 1911 et seq.

DALLOZ, Petits codes, Paris (all the French codes issued annually).

GUYOT, Code de droit forestier, 3 vols., Paris, 1911.

RIVIÈRE, Code civil, Paris (issued annually).

SIREY, Les codes annotés (code civil, etc.—all the French codes), 7 vols., Paris. (Each part—examine the latest edition—is annotated with the decisions of French courts.)

WRIGHT, The French civil code, London, 1908 (Eng. transl.).

II. Other references:—

AMOS, Roman law, pp. 426, 434, 443, 460.

- ARGLES, French mercantile law and procedure.
- BALDWIN, The French jury system, 2 Mich. Law Rev., p. 597.
- BARCLAY, Revision powers of the Court of Cassation, 15 Law Quart. Rev., p. 194.
- BARTLETT, The French judicial system, 38 Law Mag. and Rev., pp. 257, 313; Id. 33 Can. Law Times, p. 941.
- BAUDRY-LACANTINERIE, Précis de droit civil¹⁹, 3 vols., Paris, 1905.
- , Traité de droit civil³, 29 vols. to date, Paris, 1905.
- BENTON, French law and law courts, 10 Green Bag, p. 417.
- BODINGTON, Outline of French law of evidence, 53 Am. Law Reg., p. 62 (1905).
- BORCHARD, Bib. of int. law and Cont. law, Wash., 1913.
- BRISSAUD, Cours d'histoire générale de droit français public et privé, 2 vols, Paris, 1904.
- (Garner, transl.), A history of French public law (vol. ix of Continental Legal History Series, Boston, 1911 et seq.).
- (Howell, transl.), A history of French private law (vol. iii of Cont. Legal Hist. Series, etc.).
- CAILLEMER, Quelques libelli de la France du Nord XIV—XIV siècles (in Mélanges (§965) Gérardin, pp. 61–74, Paris, 1907).
- CODE CIVIL — LIVRE DU CENTENAIRE, 1804–1904, 2 vols., Paris, 1904.
- COLQUHOUN, Roman law, §§ 170–77.
- COUDERT, French criminal procedure, 19 Yale Law Journal, 326, 340.
- COX-SINCLAIR, The Bar in France, 31 Law Quart. Rev., p. 171.
- CUJAS, Life of, see 13 Journal Soc. Comp. Leg. N. S., pp. 86–107.
- DE COLYAR, Jean-Baptiste Colbert, etc., 13 Journ. Soc. Comp. Leg. N. S., pp. 56–86.
- DOMAT (Strahan, ed. by Cushing), Civil Law in its natural order, Boston, 1850.
- ESMEIN, Cours élémentaire d'histoire du droit français⁴, Paris, 1901.
- Sur quelques lettres de Sidione Apollinaire (in Mélanges, pp. 359–92, Paris, 1886). On Roman law in Gaul, 5th century.
- FERGUSON, Development of law . . . in France, etc., 63 Albany Law Journal, p. 419.
- FRENCH, English and French criminal law — a contrast, 30 Canadian Law Times, p. 156.

- (§965) — criminal procedure and evidence, 44 *Am. Law Rev.*, pp. 82-7.
- judicial organization, 33 *Canadian Law Times*, p. 565.
- university and free teaching of law, 4 *Law Mag. and Rev.*, p. 80.
- legal procedure, peculiarities of, 7 *Green Bag*, p. 79.
- jurisprudence, 4 *Law Mag. and Rev.*, p. 660.
- FULLER, The French Bar, 23 *Yale Law Journal*, pp. 113, 248.
- French courts of commerce, 12 *Columbia Law Rev.*, p. 145.
- GADAVE, Les documents sur l'hist. de Toulouse, vol. 3, Paris, 1910.
- GANS, Judicial system of France, *Juridical Review*, Dec. 1903.
- GAVET, Sources de l'histoire des institutions et du droit français, pp. 675-84, Paris, 1899.
- GENERAL SURVEY of events, etc. (vol. i, *Continental Legal Hist. Series*, part iii), "France," pp. 205-303.
- GIFFARD, Études sur les sources du droit français, Paris, 1913; Id. 37 *Nouvelle revue hist. de droit* (1913).
- GIRARD, Manuel de droit romain⁵, pp. 86-8.
- GLASSON, Hist. de droit et des institutions de la France, 8 vols. (Paris).
- GOIRAND, French commercial law and practice², London, 1898.
- GREAT JURISTS of the world (vol. ii, *Cont. Legal Hist. Series*, pp. 58-108, 248-82, 417, 447).
- HORN, France (in "Commercial Laws of the world," vol. 21, pp. 4-32).
- HOUARD, Anciennes loix des françois, Rouen, 1766.
- HOWE, Civil Law², p. 131 et seq.
- HUIER, A French criminal trial, 21 *Law Students' Helper*, pp. 16-18.
- HUNTER, Roman law⁴, pp. 102-4.
- ILBERT, Centenary of the French Civil Code, 14 *Journ. Soc. Comp. Leg.*, p. 128 (1905).
- IRWELL, The judicial system of France, 14 *Green Bag*, p. 527.
- JOBÉ-DUVAL, François le Douaren (in *Mélanges P. F. Girard*, vol. i, pp. 573-621, Paris, 1912).
- LAFERRIÈRE, Hist. du droit civ. de Rome et du droit français, Paris, 1846.

- LAGRÈZE**, *Hist. du droit dans les Pyrénées*, Paris, 1867.
- LAURENT**, *Principes de droit civil français*, 33 vols., Paris, 1878 (supplement in 8 vols., Paris, 1904).
- *Cours élémentaire de droit civil*, 4 vols., Brussels, 1887.
- LEE**, *Historical jurisprudence*, pp. 368-72, 392-6, 416-31.
- *The Barbarian Codes*, 9 Green Bag, p. 428.
- LEFEBVRE**, *Cours . . . sur l'hist. du droit civil français*, 2 vols., Paris, 1912.
- LEGRAND**, *Dictionnaire usuel de droit français* (with a supplement), Paris, 1912.
- LOYSEL**, *Institutes coutumières*, 2 vols., Paris, 1846.
- LYON-CAEN** and **RENAULT**, *Hist. de droit com. franç.*
- MACKELDEY** (*Dropsie*, tr.), *Roman law*¹⁴, §§ 94-5.
- MACKENZIE**, *Roman law*⁷, pp. 40-44.
- MCILWRAITH**, *The French school of law*, 6 Law Quart. Rev., p. 42.
- *Eng., French, and Belgian Bars*, 14 Law Quart. Rev., 169.
- MONTMORENCY**, *Pothier*, 13 Journ. Comp. Leg. N. S., pt. 2, p. 232 (no. 28, July, 1913).
- MOREY**, *Roman law*, pp. 183-5, 196-7.
- MORIARTY**, *The Paris law* (§965) courts, London, 1894.
- ORTOLAN** (*Prichard and Nasmith*, Eng. transl.). *Hist. of Rom. law*, §§ 626-36.
- PARDESSUS**, *Mémoire sur l'origine du droit coutumier en France*, Paris, 1834.
- *Essai hist. sur l'organisation judic. . . . depuis Hugues Capet jusqu'à Louis XII*, Paris, 1851.
- *Lois maritimes*, etc., vol. i (*Laws of Oléron*). Paris, 1828-45.
- PARKER**, *Bench and Bar in France*, 24 Law Mag. and Rev., p. 431.
- PASQUIER**, *L'interprétation des Institutes de Justinien avec la conférence de . . . ordonnances royales*, Paris, 1847.
- PELLERIN**, *French law of bankruptcy*, London, 1907.
- *French law of wills, probate . . . death duties*, London, 1909.
- PONCELET**, *Motifs . . . du code civil*, Paris, 1841.
- POTHIER** (*Cushing*, transl.), *Sale*, Boston, 1839.
- (*Evans*, transl.), *Obligations*, 2 vols., Philadelphia, 1826.
- REGISTER**, *Notes on the history of commerce*, etc., 33 Canadian Law Times, p. 1078.

- REVUE générale du droit, etc., Paris, 1876 to date.
- ROSE, Trial by jury in France, 35 Harv. Law Rev., p. 17.
- SALKOWSKI (Whitefield, transl.), Roman law, § 14.
- SAVIGNY, Geschichte d. röm. Rechts im Mittelalter², Heidelberg, 1834 et seq. (chapters 5, 8-9, 21, 30, 48).
- SMITHERS, Code Napoleon, 40 Am. Law Reg., p. 127.
- History of the French notarial system, 60 Univ. of Penn. Law Rev., p. 19.
- TARDIF, Hist. des sources du droit français, origines romaines, p. 464 (1890).
- THOLOSAMUS, Syntagma juris universi (1633). Compares French and Roman law.
- TRAVERS-TWISS, The black book of the admiralty, 4 vols., London, 1871-76, (Laws of Oléron).
- TYPALDO-BASSIA, Le droit romain . . . ses principes . . . et des rapports avec le droit français, 2 vols., Paris, 1898.
- VILLARGUES, Dictionnaire de droit civil⁴, 9 vols., Brussels, 1852 et seq.
- VINOGRADOFF, Roman law in medieval Europe, pp. 59-83, New York, 1909.
- VIOLLET, Hist. du droit civ. français³, Paris, 1905.
- WHITNEY, Legal literature in France, 26 Law Mag. and Rev., p. 396.
- WILLIAMS, Comparative Roman law, 30 Law Mag. and Rev., pp. 70, 149.
- WILLIAMSON, The French law relating to bills of exchange, promissory notes, and cheques, London, 1912.
- ZACHARIAE, Handbuch des französischen Civilrechts⁷, 4 vols., Heidelberg, 1886.
- ZELLER, Das Seerecht von Oléron (1907).
- III. See also supra §§ 951, 952; vol. i, §§ 233-258.

§ 966 French law parts of the British Empire: references.

(a) Channel Islands:

- GLASSON, Histoire du droit . . . de l'Angleterre, vol. vi, p. 892.
- HUBERIC, Channel Islands (in vol. 15, Commercial Laws of the World, "British Dominions," etc., pp. 96-101 et seq., London, 1912).
- REPORTS of Cases (Tables des décisions de la Cour royale, 4 vols., 1885-1907).

(b) **Mauritius and Seychelles:**

DELALEU, Codes des îles de France et de Bourbon², Port Louis, 1826.

HERCHENRODER and RIND, Laws of Seychelles, Mahé, 1907. (Revised to 1906.)

HUBERICH, Mauritius and Seychelles (in vol. 15, Commercial Laws of the World, "British Dominions," pp. 263-387, London, 1912).

PIGGOTT and THIBAUD, Laws of Mauritius, Mauritius, 1905. (Revised to 1904.)

REPORTS of Cases (decisions of Supreme Court of Mauritius, 1860 to date).

WRIGHT, French Civil Code, London, 1906. (English translation.)

(c) **Quebec:**

I. Codes, etc., and translations:—

BEAUCHAMP, Code civil du Bas-Canada annoté, 3 vols., 1905 (English and French texts, also text of Code civil of France).

BUTLER, Civil code of Lower Canada, Montreal, 1910 (in English).

CODE CIVIL du Bas-Canada (Civil Code of Lower Canada), 29 Victoria, ch. 41, 1865 (Statutes of Quebec,

French and English text), (§966) Ottawa, 1866.

COMMERCIAL LAWS of the World, "Canada-Quebec," London, 1911 et seq.

MARTINEAU and DELFAUSSE, Code de procédure civile de Quebec annoté, etc., Montreal, 1903 (French and English texts).

PROJET du code civil du Bas-Canada³, 3 vols., Quebec, 1865.

REPORTS of the decisions of Quebec courts.

WEIR, Civil code of Lower Canada, Montreal, 1903 (in English).

— Code of Civil Procedure of Quebec, Montreal, 1903 (in English).

II. Other references:—

HOLMSTED, Origins of French Canadian law, 17 Law Quart. Rev., p. 178.

LAMARCHE, French civil law under British rule, 31 Canadian Law Times, p. 420 (1911).

LAREAU, Hist. du droit canadien, 2 vols., Montreal, 1889.

LEMIEUX, Les origines franco-canadien, Montreal, 1900.

MIGNAULT, Le droit civil canadien, 9 vols. to date (1895-).

— Le code civil au Canada (in "Code civil — livre du

- centenaire 1804-1904," vol. ii, pp. 725-34).
- ROGERS, French Canadian decisions, 10 Green Bag, p. 387.
- SURVEYOR, Quebec and the French civil code, 12 Revue Légale, p. 12.
- WALTON, Scope and interpretation of the civil code, Montreal, 1907.
- Legal system of Quebec, Columbia Law Review, March, 1913.
- (d) See also supra § 965; vol. i, §§ 259-62.

§ 967 French law parts of the United States: references.

I. Codes, etc.: —

CODE CIVIL de la Louisiane (French and English texts), New Orleans, 1838.

SAUNDERS, Revised Civil Code of Louisiana, New Orleans, 1909 (in English).

II. Other references: —

HOWE, Studies in the Civil Law², pp. 131-42, 346, et seq.

— Law in the Louisiana Purchase, 14 Yale Law Journal, p. 77.

— Roman and Civil Law in America, 16 Harvard Law Rev., p. 342.

HUBERICH, Louisiana (in Commercial Laws of the World, vol. vii, London, 1911 et seq.)

LOUISIANA, How the adoption of the Common Law was prevented in, 57 Central Law Journal, p. 393.

— Reports or Decisions.

MARTIN, History of Louisiana, 2 vols., 1827-29.

MUNRO, Genesis of Roman law in America, 23 Harvard Law Rev., p. 579.

POUND, Influence of French law in America, 3 Ill. Law Rev., p. 354.

III. See also supra §§ 965, 966; vol. i, §§ 263-4.

§ 968 Belgium: references.

I. Codes, etc., and translations: —

COMMERCIAL LAWS of the World, "Belgium," London, 1911 et seq.

PICARD and SIVILLE, Codes

annotés, Brussels (latest edition).

RAIKES, The maritime codes of Holland and Belgium, London, 1898.

TODD, Belgian law, London,

1905 (Eng. transl. of various codes).

II. Other references:—

BELGIUM, Law courts of, 8 Green Bag, p. 158.

BIERVLIET, L'interprétation belge du code civil (in Code civil — livre du cent, 1804–1904, vol. ii, pp. 641–80, Paris, 1904).

BORCHARD, Bib. of int. law and Cont. law, Wash., 1913.

COX-SINCLAIR, The Bar in Belgium, 34 Law Mag. and Rev., p. 257.

DE LEVAL, A short treatise on Belgian law and procedure, London, 1898.

EDWARDS, Roman law in England and Belgium, 7 Law Mag. and Rev., p. 38.

GAVET, Sources de l'hist. . . . et du droit, etc., pp. 688 et seq., Paris, 1899.

GENERAL SURVEY, etc. (vol. i,

Cont. Legal Hist. Series, pp. 455–79, Boston, 1912).

HANSSENS, Le code civil en Belgique (in Code civil — livre du cent., etc., vol. ii, pp. 681–724).

LAURENT, Principes de droit civil, 33 vols., Paris, 1878 (supplement of 8 vols., Paris, 1904).

— Cours élémentaire de droit civil, 4 v., Paris, 1887.

MCILWRAITH, English, French, and Belgian Bars, 14 Law Quart. Rev., p. 169.

PICARD and LARCIER, Bibliographie de droit belge, Brussels, 1882–90.

— Belgian maritime law, 9 Law Mag. and Rev., p. 174; 10 Law Mag. and Rev., pp. 29, 194, 284.

III. See also supra § 965, infra § 969; supra vol. i, §§ 254, 256, 257, 265.

Holland: references.

§ 969

I. Codes, etc., and translations:—

COMMERCIAL LAWS of the World, "Netherlands," London, 1911 et seq.

RAIKES, The maritime codes of Holland and Belgium, London, 1898.

TRIPHELS, Les codes néerlandais, Maestricht, 1886 (French transl.).

II. Other references:—

ASSER, Le code civil dans les Pays-Bas (in Code civil — livre du centenaire, 1804–1904, vol. ii, pp. 817–48, Paris, 1904).

- and VAN HEUSDE, *Nederlandsch burgerlyk.*, 2 vols., Haarlem, 1899.
- BORCHARD, *Bib. of int. law and Cont. law*, Wash., 1913.
- BRYCE, *Studies in history, etc.*, pp. 91, 93, New York, 1901.
- GAVET, *Sources de l'histoire . . . et du droit, etc.*, pp. 688 et seq., Paris, 1899.
- GENERAL SURVEY of events, etc. (vol. i, *Continental Legal Hist. Series*, pp. 455–79, Boston, 1912).
- GIRARD, *Manuel de droit romain*⁵, p. 88.
- GROTIUS (Herbert, transl.), *Introduction to Dutch jurisprudence*, London, 1845.
- HUNTER, *Roman law*⁴, p. 104.
- LEE, *Historical jurisprudence*, pp. 393–4.
- MACKELDEY (*Dropsie*, transl.), *Roman law*¹⁴, § 96.
- MACKENZIE, *Rom. law*⁷, p. 42.
- MOREY, *Roman law*, pp. 185–7, 211.
- VERSCHAVE, *Le régime légal de l'enseignement en Hollande*, Paris, 1910.
- WILLIAMS, *Comparative Roman law*, 30 *Law Mag. and Rev.*, p. 149.
- III. See also supra § 965, infra § 970, "Roman-Dutch law parts of the British Empire"; supra vol. i, §§ 254, 256–7, 266–7.

§ 970 Roman-Dutch law parts of the British Empire: references.

(a) In general:

- BISSCHOP, *Modern Roman-Dutch law*, 24 *Law Quart. Rev.*, p. 157 (1908).¹
- LEE, *Roman-Dutch law in the Law Reports*, *Journal of Soc. of Comp. Legislation*, no. 22, vol. ix, part 2 (April, 1905).
- *Introduction to Roman-Dutch law*,³ Oxford, 1931.
- MACKARNES, *Roman-Dutch law*, 15 *Journ. Soc. Comp. Legisl.*, pp. 34, 190.
- TAYLOR, *Registration of deeds under Roman-Dutch law*, 2 *Law Quart. Rev.*, p. 347.
- WESSELS, *History of the Roman-Dutch law*, *Grahams-town (So. Africa)*, 1908.
- WILLIAMS, *Roman-Dutch law*, 19 *Yale Journal*, p. 156.
- *Comparative Roman law*, 30 *Law Mag. and Rev.*, pp. 70–75, 149–58.

(b) Ceylon:

- ARUNACHALM, *Digest of the civil law of Ceylon*, Colombo, 1910.
- BALASINGHAM, *Institutes of the laws of C.* (1906–12).
- CASIE-CHITTY, *Voet's titles on vindicationes and interdicts* (1893).

¹ BISSCHOP, *Modern Roman-Dutch Law*, 42 *Law Quart. Rev.*, p. 237 (1926).

- HUBERICH, Ceylon (in 16 Commercial laws of the world, pp. 263-73, London, 1912).
- PERREIRA, Institutes of the laws of Ceylon, 2 vols., Colombo, 1901-04.
- REPORTS of decisions of Ceylon courts (see 16 Comm. Laws of the World, p. 271).¹
- SEE also (a) and (d).
- TAMBYAH, Digest of the law of contract, Colombo, 1897.²
- (c) **Guiana:**
- COMMERCIAL LAWS of the World, vol. xvii, "Guiana."
- REPORTS of decisions of Guiana courts.
- SEE also (a).
- (d) **South Africa:**
- BERWICK, Contribution to an Eng. transl. of Voet's commentary on the Pandects (1902).
- BISSCHOP, Roman-Dutch law in South Africa, 2 Law Quart. Rev., p. 41 (1904).
- COMMERCIAL LAWS of the World, vol. xv, "South Africa."
- CONFLICT of laws as to interests in lands, 54 Solicitors' Journ., p. 301 (1910).
- GROTIUS (Herbert, transl.), Introduction to Dutch jurisprudence, London, 1845.
- (Van der Made, transl.), Id. (1878).
- ¹SAMINATHAN CHETTY v. POORTEN, [1933] App. Cases, 178; 49 Law Quart. Rev., p. 325.
- ²WEERASEKERA v. PEIRIS, [1933] App. Cases, 190; 49 Law Quart. Rev., p. 325.
- ³LEE, Introduction to Roman Dutch Law,³ Oxford, 1925.
- (De Bruyn, transl.), Id. (§970) (1894).
- KOTZE, Translation of Van Leeuwen's Commentaries (1881).
- LEE, Intestate succession of husband and wife in Roman-Dutch law, 26 Journ. Soc. Comp. Legisl., pp. 310-23 (1912).
- Introduction to Roman Dutch law, Oxford, 1915.³
- MACGREGOR (translator), Voet's Commentary on the Pandects, etc., Cape-town, 1902.
- MORICE, English and Roman-Dutch law², London, 1905.
- NATHAN, Common law of South Africa, founded on the Pandects, 4 vols., London, 1904-07.
- REPORTS of decisions of South African and provincial courts.
- ROOS and RITZ, Principles of Roman-Dutch law, Grahamstown, 1909.
- SEE also (a) and (b).
- SOMERSET-BELL, South African legal dictionary (1910).
- VAN DER ZYL, Theory of the judicial practice of the Cape, etc., (1902).
- VOET, Commentarius ad Pandectas (English translations): book 13, title 7, books 18-21, on "purchase and sale, letting and hiring,

- mortgages, evictions, and warranty" translated by BERWICK, London, 1902; 18 on "sale" translated by WILSON, London, 1897; book 26, titles 1-2, on "vesting of legacies and fideicommissa" translated by MACGREGOR, Capetown, 1902; titles on "vindicationes and interdicta" by CASIE-CHITTY (1893).
- WESSELS, History of the Roman-Dutch law, Grahamstown, 1898.
- WILSON, Translation of Voet's Commentarius ad Pandectas, London, 1876-97.
- (e) See also supra § 969; vol. i, §§ 268-71.

§ 971 International law: references.

- BISSCHOP, A school of international law, 11 Journ. Compar. Legisl., no. 24, N.S., p. 288.
- BONFILS, Manuel de droit international public⁵ (droit des gens), Paris, 1908.
- BORCHARD, The bibliography of international law and Continental law, Washington, 1913.
- CAMPOS, Elementos de derecho internacional público³, Madrid, 1912.
- Elementos de derecho internacional privado⁴, Madrid, 1913.
- CHRETIEN, Principes de droit internat. public, Paris, 1908.
- DESPAGNET, Cours de droit internat. public³, Paris, 1908.
- GROTIUS, De jure belli et pacis. (There is an English transl. by Whewell, 3 vols., Cambridge, 1853; a French transl. by Barbeyrac, 2 vols., Amsterdam 1724; and a German transl. in Kirchmann's Philosophie-Bibliothek, 3 vols., Leipzig, 1879.)
- HALL, International law⁵, Oxford, 1904.
- LAWRENCE, International law³, Boston, 1908.
- LORENZEN, The renvoi, etc., 10 Columbia Law Rev., pp. 190, 327.
- NIJS or NYS, The codification of international law, 5 Am. Journ. of Internat. Law, p. 871 (1911).
- Le droit des gens, etc., The Hague, 1914.
- Le droit international, The Hague, 1914.
- PHILLIPSON, The international law and custom of ancient Greece and Rome, 2 vols., London, 1911.
- POLLOCK, The sources of international law, 18 Law Quart. Rev., p. 418.

- SEE also supra vol. i, §§ 272-4. WHARTON, Private international law³, 2 vols., Rochester (N. Y.), 1905.
- VON ULLMANN, Das öffentl. Recht d. . . . Völkerrecht, 3 vols., Berlin, 1908. WOOLSEY, International law, §§ 8, 63, 114-15, 128-9, 132, 143.

The Scandinavian countries: references.

§ 972

- BEAUCHET, Lois maritimes scand. (Suède, Danemark, Norvège) trad., Paris 1895. —Die norwegischen Hölder (1889).
 —Vorkommen des Gesetzes . . . in Dänemark (1887).
- BERGIN, Law of the West-goths transl. into English, Rock Island (Ill.), 1906 (Swedish law, A.D. 1200).
- BORCHARD, Bib. of int. law and Cont. law, Wash., 1913.
- COMMERCIAL LAWS of the World, vol. xx, "Denmark, Sweden, Norway," London, 1913.
- DE LA GRASSERIE, Codes suédois de 1734 (French transl.), Paris 1895. (See also his Introduction, Id.)
- GENERAL SURVEY of events, etc. (vol. i, Continental Legal Hist. Series, pp. 533-74, Boston, 1912).
- MAURER, . . . Des altnorwegischen Rechtes (1879).
- NORWAY, Penal law in Sweden and, 12 Law Mag. and Rev., p. 86.
- RAIKES, Maritime law of Sweden and Norway, 17 Law Mag. and Rev., p. 235; 18 Id., pp. 33, 200, 298; 19 Id., pp. 54, 159; 20 Id., p. 296; 21 Id., p. 130.
- SEE also supra vol. i, § 275.
- SWEDEN, Penal law in Italy and, 12 Law Mag. and Rev., p. 86.
- THOMPSON, Swedish law reform, 38 Am. Law Rev., pp. 388, 674.
- WILLIAMS, Speculum and Mirror, 26 Law Mag. and Rev., p. 161.

Portugal: references.

§ 973

- BORCHARD, Bib. of int. law and Cont. law, Wash., 1913.
- COMMERCIAL LAWS of the world, "Portugal," London, 1911 et seq.
- LANEGRE and DUBOIS, Code civil portugais (French transl.), Paris, 1896.
- LEPELLETIER, Code civil port., (Fr. transl.), Paris, 1894.

O DIREITO, Revista de jurisprudencia e legislação, Lisbon, 1869 to date.

PORTUGAL, Law in, 1 Law Mag. and Rev., p. 679.

RAIKES, The maritime codes of Spain and Portugal, London, 1896.

— Portuguese maritime

law, 17 Law Mag. and Rev., p. 291; 18 Id., p. 138; 19 Id., pp. 159, 241, 306; 20 Id., pp. 165, 206.

SAVIGNY, Geschichte d. röm. Rechts², etc., Heidelberg, 1834 et seq., ch. 21.

SEE also supra v.i, §§ 276-77.

§ 974 Brazil: references.

BORCHARD, Guide to the law and legal lit. of Arg., Brazil and Chile (1917).

CARVALHO, Direito civil b., recopilado, etc., Brussels, 1899.

COMMERCIAL LAWS of the World, vol. iv, "Brazil."

COSTA, Código commercial do imperio do Brazil, Rio de Janeiro, 1878.

DE LA GRASSERIE, Lois civiles du Brésil, Paris, 1897.¹

RODRIGUES, Exposé des motifs du projet de code civil brésilien, Geneva, 1894.

SEE also supra § 973; vol. i, § 278.

WALTON, Civil Law in Spain and Spanish America, p. 602, Washington, 1900.

— Leyes comerciales y maritimas de la America Latina, vol. ii, Brazil, Washington, 1907.²

§ 975 Spain. references.

I. Codes, etc., and translations:—

BONEL, Código civil español, Madrid (latest edition to be consulted).

COMMERCIAL LAWS of the World, vol. 32, "Spain." (Series is published at London, 1911 et seq.)

DOMINGUEZ, Código civil (latest edition).

LEHR, Éléments de droit civil espagnol, 2 vols., Paris,

1880 (vol. ii has partial French transl. of Civil Code, Code of Civ. Proced., and Code of Commerce).

LEVÉ, Code civil espagnol², Paris, 1904 (French transl. of the Civil Code).

MOREAU-LISLET and CARLTON, Laws of the Partidas on promises and obligations, sale, purchase, and exchange New Orleans, 1818-20. (Partial Eng. transl. of Las Siete Partidas.)

¹ OBREGÓN, Latin-American commercial law, New York, 1921.

² WHELESS, Civil code of Brazil (English translation), St. Louis, 1920.

- PRUDHOMME, Code de commerce espagnol, Paris, 1891 (French transl. of Code of Commerce).
- RAIKES, The maritime codes of Spain and Portugal, London, 1896.
- SCOTT, The Visigothic Code (English transl. of Fuero Juzgo), Boston, 1910.¹
- WALTON, Civil Law in Spain and Spanish America, Washington, 1900. (Has an Eng. transl. of the Civil Code.)
- WHITE, New Recopilacion, Philadelphia, 1839 (Eng. transl. of Nueva Recop.).
- II. Other references:—**
- ALTAMIRA, Historia del derecho español, Madrid, 1903.
- Spain (in General survey of events, etc., pp. 579–702, Boston, 1912 — this is vol. ii of the Cont. Legal History Series).
- ASSO and MANUEL (Johnson, English translator), Institutes of the civil laws of Spain, London, 1825.
- BECKFORD, Spanish Civil Code, 40 Am. Law Reg., 89.
- BENITO, Introduction to vol. 32, Commercial Laws of the World, "Spain," pp. 1–33.
- BORCHARD, Bib. of int. law and Cont. law, Wash., 1913.
- and PALMER, Guide to the law and literature of Spain, Wash., 1915.
- COROLEU, El código de los usos de Barcelona, Barcelona, 1890.
- FITTING, Mélanges Fitting: "Les lacunes de l'histoire du droit romain en Espagne," Paris, 1907.
- GAVET, Sources de l'hist., etc., pp. 698–700, Paris, 1899.
- GIRARD, Manuel de droit romain⁵, p. 87, Paris, 1911.
- HINOJOSA, Historia general del derecho español, Madrid, 1887.
- HOWE, Jus gentium and law merchant, 40 Am. Law Reg., p. 375.
- LACOSTE, Essai sur les Mejores ou avantages légitimaires dans le droit espagnol, ancien et moderne.
- LEE, Historical jurisprudence, pp. 360–85, 431, 434.
- LEHR, Éléments de droit espagnol, 2 v., Paris, 1880.
- LEVÉ, Introduction to his "Code civil espagnol", Paris, 1904.
- LOBINGIER, The Forum Judicum (Fuero Juzgo), 88 Ill. Law. Rev., p. 1 (1913).
- Las Siete Partidas, 1913 Annual Bulletin Comparative Law Bureau, Am. Bar Ass'n, pp. 33–50.
- MACKELDEY (Dropsie, translator) Roman law¹⁴, § 96.
- MANRESA Y NAVARRO, Comentarios al código civil es-

¹ SCOTT, Las Siete Partidas (English translation), Am. Bar Comp. Law Bureau, New York, 1931.

- pañol, 12 vols., Madrid, 1903-05.
- MONTELLA, Reformas en el código civil español, Barcelona, 1910.
- MOREY, Rom. law, pp. 194-6.
- MOUTON, Diccionario del derecho, 3 vols., Madrid, 1904.
- NIJS (or NYS), Le droit des gens et les actions jurisconsultes espagnols, The Hague, 1914.
- PRUDHOMME, Introduction to his Code de commerce espagnol, Paris, 1891.
- RAIKES, Spanish maritime law, 14 Law Mag. and Rev., p. 334; 15 Id., 34, 258; 16 Id., 43, 143, 233, 316; 17 Id., 164.
- REGISTER, Notes on the history of commerce and commercial law, 33 Canadian Law Times, 1078 (1913).
- SANCHEZ, Historia legal de España, 2 v., Madrid, 1841.
- SAVIGNY, Geschichte d. röm. Rechts im Mittelalter², ch. v, viii, xxi.
- SPAIN, The jury in, 4 Law Mag. and Rev., p. 752.
- WALTON, Civil Law in Spain, etc., pp. 1-93, 492 et seq.
- WILLIAMS, Speculum and Mirror, 26 Law Mag. and Rev., p. 161.
- III. See also *infra* §§ 976, 977; *supra* vol. i, §§ 279-305.

§ 976 Spanish America: references.

- (a) **All Latin-American States and countries:**
- BORCHARD, Guide to the law and literature of Argentina, Brazil, and Chile (1917).
- COMMERCIAL LAWS of the World, vols. i-xi, xvi, London, 1911 et seq.¹
- REIS, Spanish law in the British Empire, Journal Soc. Comp. Legisl. N. S., no. 30, Jan. 1914.
- WALTON, Civil Law in Spain and Spanish America, pp. 519 et seq., Washington, 1900.
- Leyes comerciales y mar-
- itimas de la America latina, 5 vols., Washington, 1907.²
- (b) **Argentina:**
- BUNGE, Historia del derecho argentino, Buenos Aires, 1912.
- CARETTE, Diccionario jurisprudencia argentina, 4 vols., Buenos Aires, 1907-11.
- CÓDIGO civil de la republica argentina, Buenos Aires, 1907.
- civil, Madrid, 1884.
- de comercio, Buenos Aires, Buenos Aires, 1890.
- penal, Madrid, 1884.
- de procedimientos en

¹ LOBINGIER, An inter-American negotiable instruments law, 12 American Bar Assn. Journal, p. 243.

² OBREGÓN, Latin-American commercial law, New York, 1921.

materia civil y comercial, Madrid, 1884.

CÓDIGOS (Spanish text of the codes and laws of Argentina), 2 vols., Paris, 1894.

JOANNINI, Argentine Civil Code, Boston. (English transl. Am. Bar. Comp. Law Bureau, 1917).

PRUDHOMME, Code de commerce argentin, Paris, 1893 (French transl.).

(c) **Brazil:**

SEE supra §974; vol. i, §278.

(d) **Chile:**

AGUILERA, Código chileno comentado, Madrid, 1881.

BORCHARD, Guide to the law and literature of Argentina, Brazil, and Chile (1917).

CÓDIGO civil, Santiago, 1890.

—de comercio, Havre, 1884.

DE LA GRASSERIE, Code civil chilien, Paris, 1896 (French transl.).

PRUDHOMME, Code civil chil., Paris, '04 (Fr. transl.).

— Code de commerce chil., Paris, 1892 (French transl.).

(e) **Guatemala:**

CÓDIGO civil, Madrid, 1880.

(f) **Haiti:**

BORNO, Code civil annoté, Paris, 1892.

PONJOL, Code de commerce, Paris, 1911.

(g) **Mexico:**

(§976)

DE LA GRASSERIE, Code civil mexicain, Paris, 1896 (French transl.).

HALL, The laws of Mexico relating to real property, mines, water rights, etc., San Francisco, 1885.

KERR, Handbook of Mexican law, Chicago, 1909. (An abridgment of the principal codes.)

— Prontuario de los códigos mexicanos, Chicago, 1912. (A complete digest of Mexican civil and commercial law, including Civil Code, Code of Commerce, Code Civ. Proced.)

MEXICO, Supreme court of Mexico and judicial system of the country, 8 Green Bag, p. 203.

— Strafgesetzbuch für Mexiko, Berlin, 1893 (German transl. of penal code).

PRUDHOMME, Code de commerce mexicain, Paris, 1894 (French transl.).

ROMERO, Anglo-Saxon and Roman systems of criminal jurisprudence, 8 Green Bag, p. 410.

TAYLOR and HOWAT, The Civil Code of Mexico, Mexico City, 1904.

- WHELESS, Compendium of the laws of Mexico, 2 vols., St. Louis, 1910.
- (i) **Uruguay:**
CÓDIGO civil, Madrid, 1879.
- (h) **Peru:**
DE LA GRASSERIE, Code civil peruvien, Paris, 1896 (French transl.).
- (j) **Venezuela:**
DE LA GRASSERIE, Code Civil traduit, Paris, 1897 (French (transl.).
- JOANNINI, Peruvian Civil Code, Boston. (English transl. in preparation.)
- (k) See also supra § 975, and infra § 977; supra vol. i, §§ 306, 307, 308 (note).

§ 977 Spanish law parts of the United States: references.

I. In general:—

- COMMERCIAL LAWS of the World, vol. vii, pp. 10-13, London, 1911 et seq.¹
- DEERING, California digest of decisions, "Mexican law."
- DIGESTS, REPORTS and STATUTES of Arizona, California, Louisiana, New Mexico, Texas, and other states carved out of the Florida Cession, Louisiana Purchase, and Mexican Cession.
- DOMINGUEZ, Americanizing an old system of law, 17 Case and Comment, p. 219 (Porto Rico).
- DRAKE, The old Roman law and a modern American code, 3 Mich Law Rev., p. 108 (Porto Rico).
- FERNANDEZ Y PEREZ v. the Same, 202 U. S. Supreme Ct. Rep., pp. 80-101 (Porto Rico).
- Discussion of this case in 62 Cent. Law Journal, p. 357.
- GARRISON, Penal Code of Cuba and Porto Rico, 13 Harv. Law Rev., p. 124.²
- Roman law and Porto Rico law codes, 64 Albany Law Journal, p. 429.
- GREEN, Texas digest of decisions, "Spanish law," "Mexican law."
- HOWE, Law in the Louisiana Purchase, 14 Yale Law Journal, p. 77.
- Studies in the Civil Law, pp. 137, 140-49.
- LAMAR, Development of law in Cuba, 63 Alb. Law Journal, p. 349.
- LOBINGIER, Codification in the Philippines, Bulletin Compar. Law Bureau, Am. Bar Ass'n, 1910.
- A decade of judicial fusion in the Philippines,

¹ COLLINS, Canal Zone changes to Common law system, 16 American Bar Assn. Journal, p. 233.

² GILMORE, Philippine jurisprudence—Common law or Civil law?, 16 American Bar Assn. Journal, p. 89.

- Bulletin Compar. Bureau, etc., Id.
- Blending legal systems in the Philippines, 21 Law Quart. Rev., p. 401.
- Civil Law rights and Common Law remedies: a resumé of the progress of legal fusion in the Philippines, 20 Juridical Rev., p. 97.
- LOEWRY, Spanish community of acquests and gains, 1 Cal. Law Rev., pp. 32-45.
- MACLEARY, The administration of justice in Porto Rico, 7 Ill. Law Rev., p. 77.
- MARMION *v.* PELEGRI, 1 Porto Rico, Dec., p. 225.
- MARTIN, History of Louisiana, 2 vols., 1827, 1829.
- PORTO RICO, see 62 Central Law Journal, p. 357.
- Revised statutes of 1902, San Juan, 1902; Revised statutes and codes of 1911, Washington, 1913 (contains the Civil and other codes in English).
- RIVERA *v.* CADIerno, 3 Porto Rico Fed. Rep., p. 43.
- RODRIGUEZ-SERRA, Admission of attorneys from the Spanish standpoint, Am. Bar Proceedings, 1910, p. 840 (Porto Rico).
- WALTON, Civil Law in Spain and Spanish America, Washington, 1900, pp. 17, 519-601.
- WARE, Roman water, St. Paul, 1905, p. 141.
- WILLARD, The Philippine Islands, their jurisprudence and judicial system, So. Dakota Bar Ass'n Reports (1912).
- WILLARD, Notes to the Spanish Civil Code, Manila, 1904,
- II. See also supra §§ 976, 975; vol. i, §§ 309-10.

Japan: references.

- I. Codes, etc., and translations: —
- DE BECKER, Civil Code of Japan, 4 vols., London, 1909 (English translation).
- Commentary on the Commercial Code of Japan, 3 vols., London, 1913.
- Revised draft of Code of Civil Procedure, Yokohama, 1904 (English translation).¹
- GUBBINS, Civil Code of Japan (English translation).
- LÖNHOLM, Civil Code of Japan, Tokyo, 1898 (English translation).
- Code of Commerce, Tokyo, 1899 (English translation).

¹ DE BECKER, Japanese laws concerning patents, trademarks, etc., London, 1930.

- Law as to registration of immovables, Tokyo, 1899 (English translation).
- Penal Code, 1907 (English translation).
- Code Pénal de Japon, Tokyo, 1907 (French translation).
- YANG, Commercial code of Japan, Boston, 1910 (English translation).
- Legalsystem of old Japan, 4 Green Bag, pp. 403, 478.
- MARSH, Japanese law and jurisprudence, 38 Am. Law Rev., p. 209.
- MASAO, Japan's new code, 10 Green Bag, p. 26.
- MASUJIMA, Present position of Japanese law, 37 Am. Law Rev., p. 161.
- The Japanese Civil Code regarding law of the family, 37 Id., p. 530.¹

II. Other references:—

- GORAÏ, Influencedu Code Civil français sur le Japon (in Code Civil — livre du centenaire 1804–1904, vol. ii, pp. 781–92).
- HUZUMI, New Japanese Civil Code (paper read at Internat. Congress of Arts and Sciences, St. Louis Exposition, 1904), Tokyo, 1904.
- JAPAN, French school of law in, 4 Law Mag. and Rev., p. 62.
- SMITH, The Japanese code and the family, Law Quart. Rev. for 1907, p. 42.
- UCHIDA, The teaching of jurisprudence in Japan, Am. Law School Rev. for Nov. 1911, pp. 19–25.
- WIGMORE, Administration of justice in Japan, 36 Am. Law Reg., pp. 437, 491, 571, 628, 714.

III. See also supra vol. i, §§ 311–13.

§ 979 Germany: references.

- I. Codes, etc., and translations:—
- BARRE and HARTMANN, Code civil allemand et code civil français comparés entre eux, Berlin, 1899.
- CARPENTIER, Code de commerce allemand, Paris, 1896 (French translation of Commercial Code).
- CODE CIVIL allemand trad. en français, 3 vols., Paris, 1898 (French transl. of Civil Code).
- COMMERCIAL LAWS of the World, "German Empire," London, 1911 et seq.
- DAS BÜRGERLICHE GESETZBUCH für das deutsche Reich, latest edition, Berlin (official German text of Civil Code).

¹ SHERMAN, Charles P., The debt of modern Japanese law to French law, 6 California Law Review, 198.

- DE LA GRASSERIE, Code civil allemand, Paris, 1897 (French transl. of Civil Code).
- GRUBER, Code civil pour l'empire d'Allemagne³, Strassburg, 1909 (German text and also French transl. of Civil Code).
- *H a n d e l s g e s e t z - b u c h*, Strassburg, 1909 (German text and also French transl. of Commercial code).
- LEADER, German law of bills of exchange and cheques, London, 1911.
- LOEWY, The German civil code, Boston, 1909 (English transl. of Civil Code).
- MEULENAERE, Code civil allemand, Paris, 1897 (French transl. of Civil Code).
- MEYERS, Volksbücher, Leipzig (latest edition), for penal code, codes of criminal and civil procedure, commercial code.
- VIATTE, Code de commerce allemand, Paris, 1901 (French transl. of Commercial Code).
- WANG, The German civil code, London, 1907 (English transl. of Civil Code).
- German Empire, 32 Am. (1879) Law Rev., p. 396.
- BALDWIN, A German lawsuit, 19 Yale L. Jour., p. 69.
- BEKKER, Aus röm. und bürgerl. Recht, 1907.
- BETHMANN-HOLLWEG, Der germanische-romanische Civilprozess im Mittelalter, 3 vols., Bonn, 1868-74.
- BEYER, Delineatio juris criminalis secundum const. Carolinam (1714).
- BLUHME, Uebersicht der in Deutschland Rechtsquellen, Bonn, 1863.
- BORCHARD, Guide to the law and legal literature of Germany, Washington, 1912.
- Jurisprudence in Germany, 12 Columbia Law Rev., p. 301.
- Bibliog. of int. law and Cont. law, Wash., 1913.
- BRUNNER, Deutsche Rechtsgeschichte⁵, 2 vols., Leipzig, 1912. (English transl. of §§ 26-32, 58, 61, 65, of 4th edition in Continental Legal Hist. Series, vol. i, "General survey," pp. 322-451, Boston, 1912.)
- BRYCE, Studies, etc., pp. 92, 167, 174, 182, 393, 617, 619, 776, 778, New York, 1901.
- BUCHA, VON, Vergleichende Darstellung des bürgerl. Gesetzbuch f. d. deutsch. Reich u. gem. Rechts (1898).
- II. Other references:—**
- AMEISON, Some features of the new Civil Code of the

- (§979) CARPENTIER, Introduction to his code de commerce allemand, Paris, 1896.
- COLQUHOUN, Roman law, §§ 119-29.
- COMMERCIAL LAWS of the World, vol. 24, pp. 4-77, London, 1911 et seq.
- CROME, Les similitudes du code civil allemand et du code civil français (in Le code civil—livre du centenaire, vol. ii, pp. 587-616, Paris, 1904).
- System des deutsch. bürgerl. Rechts, 5 vols., Tübingen, 1912.
- DE LA GRASSERIE, Introduction to his code civil allemand, Paris, 1897.
- DERNBURG, Pandekten, I, pp. 4 et seq.
- DULON, Interesting features of German law, 36 Am. Law Rev., p. 565.
- EICHHOLZ, The new civil code of Germany, 35 Am. Law Rev., p. 190.
- EISELE, Die Compensation nach röm. u. gem. Rechts (1876).
- FOSTER, Der Kredit-auftrag . . . nach röm. u. neuen bürgerl. Rechte (1903).
- FREUND, The German civil code, 24 Am. Law Rev., p. 237.
- New German civil code, 13 Harv. Law Rev., p. 627.
- GALLINGER, Der Offenbarungseid (1884).
- GAREIS (Kocourek, Eng. transl.), Introduction to the study of law, Boston, 1911. (Index.)
- GAVET, Sources de l'histoire, etc., pp. 689-95, Paris, 1899.
- GENERAL SURVEY of events, etc. (vol. i, Continental Leg. Hist. Series, Boston, 1912), pp. 322-451.
- GERMAN criminal courts, 56 Albany Law Journal, p. 284.
- university, Law teaching at, 4 Law Mag. and Rev., p. 144.
- GERTH, Der Begriff des Vis Major im röm. u. Reichs-Rechts (1890).
- GIERKE, German constitutional law in its relation to the American constitution, 23 Harv. Law Rev., p. 273.
- GREAT JURISTS of the world (vol. ii, Cont. Leg. Hist. Series, Boston, 1914), pp. 283-344, 544-99.
- HAHN, Die materielle Uebereinstimmung der röm. u. germanischen Rechtsprinzipien (1856).
- HEFFER, Institution. d. röm. u. deutsch. Civilprozesses (1825).
- System d. röm. u. deutsch. Civilprozessrechts (1843).

- HEILFRON and PICK, *Bürgerl. Recht*, 4 vols., Berlin, 1908.
- *Civilprozessrechts*, 2 vols Berlin, 1907.
- *Handelsrecht*, Berlin, 1908.
- HERMANN, *German jurists*, 6 Green Bag, p. 361.
- HIGGINS, *The making of the German civil code*, 13 *Journal Soc. of Compar. Legis*, p. 95 (1905).
- HIRSCHFELD, *The new German law*, 16 *Law Quart. Rev.*, p. 288.
- HOLTZENDORFF, VON, *Encyclopädie der Rechtswissenschaft* ⁶ (ed. KOHLER), 2 vols., Berlin, 1904.
- HOWE, *Studies in the Civil Law* ², pp. 103-8, Boston, 1905.
- HUDSON, *Judicial system of the German Empire*, 1 *Mich. Law Rev.*, p. 121.
- HUEBNER (Philbrick, transl.), *History of Germanic private law* (vol. iv, *Cont. Leg. Hist. Series*, Boston).
- HUNTER, *Roman law* ⁴, pp. 104-6, London, 1903.
- JAHRBUCH des deutsch. Rechtes, Berlin, 1903 to date.
- KNIEP, *Der Besitz d. bürgerl. Gesetzbuch . . . dem röm. u. gemein. Recht* (1900).
- KOHLER, *Le code civil français dans la théorie et la pratique allemande* (in *Le code civil—livre du cent.* vol. ii, pp. 617-26, Paris, 1904).
- KRÜCKMANN, *Institutionen des bürgerl. Gesetzbuch* ², Göttingen, 1899.
- LABAND, *Le droit public de l'empire allemand*, 5 vols., Paris, 1908.
- LANDSBERG, *Geschichte der deutsch. Rechtswissenschaft*, Leipzig, 1891 (Eng. transl. of ch. 1 in *Cont. Leg. Hist. Ser.*, vol. i, "General survey," pp. 322-451).
- LEONHARD, *German ideals of private law*, 20 *Green Bag*, p. 306.
- LESKE, *Vergleich. Darstellung . . . u. des preussich. allgem. Landrechts* (1898-1903).
- LEVINSKI, VON, *Courts and procedure in Germany*, 5 *Ill. Law Rev.*, p. 193.
- *The education of the German lawyer*, 20 *Green Bag*, p. 516.
- LINDLEY, *Jurisprudence* (Eng. partial transl. of Thibaut's "Pandekten"), pp. 11, 23, London, 1855.
- LISZT, *Lehrbuch des deutschen Strafrechts* ¹⁷, Berlin, 1908.

- (§979) — (French transl. by Lobstein), *Traité de droit pénal allemand*, 2 vols., Paris, 1912.
- LOBINGIER, The reception of the Roman law in Germany, 14 Mich. Law Review, p. 562.
- Evolution of the German civil code, 1 Southern Law Quart. Rev., p. 330.
- MACKELDEY (Dropsie, transl.), Roman law¹⁴, §§ 97–105.
- MACKENZIE, Roman law⁷, pp. 42, 47–9.
- MAITLAND, The making of the German civil code (in "Collected papers," vol. iii, pp. 474–88, Cambridge, 1911).
- MOREY, Roman law, pp. 187, 197–8.
- MOTIVE zu dem Entwurfe eines bürgerl. Gesetzbuches, etc., 7 vols., Berlin, 1888.
- MÜLLER, Le code civil en Allemagne (in Le code civil — livre du cent., vol. ii, pp. 627–40, Paris, 1904).
- NEITZEL, Non-contentious jurisdiction in Germany, 21 Harv. Law Rev., p. 476.
- NEUMANN, Handausgabe des bürgerl. Gesetzbuch⁶, etc., Berlin, 1912.
- OERTMANN, Die Vorteilsausgleichung bei Schadenersatzanspruch im röm. u. deutsch. bürgerl. Rechte (1901).
- PAGENSTEIN, Die röm. Lehre von Eigenthum in . . . Anwendbarkeit (1857).
- PARDESSUS, Lois maritimes, etc., vol. i, pp. 424–524 (Laws of Wisby), Paris, 6 vols. 1828–45.
- PETERSON, Studying law in Germany, 12 Brief, p. 207.
- PHILLIPS, German code of civil procedure, 21 Law Mag. and Rev., p. 267.
- RAVÉNÉ, Study in ancient law, 3 Green Bag, p. 282. (Sachsenspiegel.)
- SALKOWSKI (Whitefield, Eng. transl.) §§ 13–16, London, 1886.
- SAVIGNY, Geschichte des röm. Rechts², ch. iv.
- SCHÄFFER, Grundriss des bürgerl. Rechts, 5 vols, Berlin, 1908.
- SCHIRRMEISTER, Legal education in Germany, 29 Law Mag. & Rev., p. 129.
- SCHMITT, Bayerische Justizgesetz, Berlin, 1908.
- SCHRÖDER, Lehrbuch der deutsch. Rechtsgeschichte⁵, Leipzig, 1910 (Eng. transl. of §§ 83–4, 91 in vol. i, Cont. Leg. Hist. Series, "Gen. survey," pp. 322–451).
- SCHULTE, Lehrbuch der deutsch. . . . Rechtsgeschichte⁴, Stuttgart, 1876.

- SCHUSTER, *Principles of German civil law*, Oxford, 1907.
- The German civil code 12 *Law Quart. Rev.*, p. 17.
- The German commercial code, London, 1911.
- SIEGEL, *Deutsche Rechtsgeschichte*³, Berlin, 1895 (Eng. transl. of §§ 52-3 in vol. i, *Cont. Leg. Hist. Series*, "General survey," pp. 322-451).
- SMITHERS, *The German civil code*, *Am. Law Register*, Dec. 1902; also in Loewy, "German Civil Code," pp. xi-xliv, Boston, 1909; 41 *Am. Law Rev.*, p. 14; 42 *Id.*, p. 685.
- SOHM (Ledlie³), *Roman law*, pp. 1-15, 150-57.
- The new German code, 60 *Albany Law Journal*, p. 334; *Forum* for Oct., 1899.
- STAUDINGER, *Kommentar zum bürgerl. Gesetzbuch*, Munich, 1912.
- STINZING, *Geschichte der deutschen Rechtswissenschaft*, 2 vols., Leipzig, 1880-84 (ch. 1, 2, 4, 16, in part are transl. into English in vol. i, *Cont. Leg. Hist. Series*, "General survey," pp. 322-451).
- STOBBE, *Geschichte der deutsch. Rechtsquellen*, 2 vols., Leipzig, 1860-64 (Eng. transl. of pp. 435- (1879) 40 of vol. ii in "General survey," etc., *supra*, pp. 322-451).
- THOLOSANUS, *Syntagma juris universi* (1633).
- TROWBRIDGE, *A German jury trial*, 2 *California Law Rev.*, p. 34.
- VERING, *Geschichte u. Pandekten d. röm. u. heutigen gem. Privatrechts* (1875-87).
- VINOGRADOFF, *Roman law in medieval Europe*, pp. 106-31, New York, 1909.
- WALTER, *Deutsche Rechtsgeschichte*, 2 vols., Bonn, 1857.
- WENGER, *Das röm. Recht in den deutsch. Universitäten* (in *Mélanges P. F. Girard*, vol. ii, pp. 601-13, Paris, 1912).
- WILLIAMS, *Speculum and mirror*, 26 *Law Mag. and Rev.*, p. 161.
- *Comparative Roman law*, 30 *Law Mag. and Rev.*, pp. 70, 149.
- ZÖPEL, *Deutsche Rechtsgeschichte*⁴, 3 vols. Brunswick, 1871-72 (Eng. transl. of §§ 57-8 in "General survey," *supra*, pp. 322-451).
- III. See also *supra* §§ 962, 964; vol. i, §§ 231-2, 314-55.

§ 980 Switzerland: references.

I. Codes, etc., and translations:—

CODE CIVIL suisse; schweizerisches Zivilgesetzbuch; code civile svizzero, Berne, 1908 (Swiss civil code published in the three national languages of French, German, and Italian).

CODE suisse DES OBLIGATIONS, schweizerisches Obligationenrecht, codice svizzero delle obbligazioni, Berne, 1911 (Swiss code of obligations published in the national languages, French, German, and Italian).

COMMERCIAL LAWS of the World, "Switzerland," London, 1911 et seq.

SHICK and WETHERILL, Swiss civil code, Boston, 1915. (Eng. transl. of civil code made under direction of Compar. Law Bureau, Am. Bar Ass'n.)¹

II. Other references:—

BORCHARD, Bib. of inter. law and Cont. law, Wash., 1913.

EGGER, ESCHER, WIELAND, OSER, and REICHEL, Kommentar zum schweiz. Zivilgesetzbuch, 6 vols. and supplement, Zurich.

GAVET, Sources de l'hist., etc., p. 695, Paris, 1899.

GENERAL SURVEY of events, etc. (vol. i, Continental Legal Hist. Series, Boston, 1912), pp. 484-530.

MARTIN, Le code civil dans la Genève et la Suisse Romande (in Le code civil—livre du cent., vol. ii, pp. 875-900, Paris, 1904).

ORELLI, Grundriss zu Vorlesungen über schweiz. Rechtsgeschichte² (1913).

— Rechtschulen und Rechtsliteratur in der Schweiz vom Ende des Mittelalters bis zur Gründung der Universitäten von Zürich und Bern (1912).

ROBINSON, The Roman law element in the new Swiss code of 1912, New Haven, 1916 (Parker Prize Essay).

ROSSEL and MENTHA, Manuel de droit suisse, Lausanne, 1912.

SCHNEIDER and FICK, Kommentar zum schweiz. Obligationenrecht, 2 vols., Zurich, 1912.

SCHUSTER, Liabilities of bailees, etc., 7 Law Quart. Rev., p. 188.

SCHWEIZ. JURISTEN-ZEITUNG (Revue suisse de jurisprudence), 1904 to date.

¹ WILLIAMS, The Swiss Civil Code (English translation), Oxford, 1925.

WIELAND, Report on Swiss civil code, etc., 20 Journal of Compar. Legis., p. 349.¹

III. See also supra vol. i, §§ 356-8.

Scotland: references.

§ 981

BELL, Commentaries on the law of Scotland⁷, 2 vols., Edinburgh, 1870.

— Principles of the law of Scotland¹⁰ (Guthrie), 2 vols., Edinburgh, 1899.

BRYCE, Studies in history, etc., pp. 73, 91, New York, 1901.

DUCK, De usu et auctoritate juris civilis in dominiis principum Christianorum (any edition—Scotland).

— (French transl.), De l'usage et d'autorité du droit civil dans les états des princes chrétiens, Paris, 1689.

DUNCAN and DYKES, Principles of civil jurisdiction as applied in Scotland, Edinburgh, 1912.

ERSKINE, Institutes of the law of Scotland (Nicholson's edition, 1871).

— Principles of the law of Scotland²⁰ (Rankine), especially pp. 4, 6, 58, Edinburgh, 1903.

IRVINE, Roman law (in GREEN, Encyclopedia of the law of Scotland).

KEEDY, Criminal procedure in Scotland, 3 Journal of Criminal Law and Criminology, pp. 728, 834.

MACKENZIE, Roman law⁷, pp. 46-7.

SCOTCH REPORTS of judicial decisions: Scots Revised Reports, 1707-1873, Scottish Law Reporter, 1865 to date, Scottish Jurist, 1829-73.

SEE also supra vol. i, §§ 359-60.

STAIR, Institutions of the law of Scotland (More's edition, especially pp. 7, 516, 579, 582, 2 vols., Edinburgh, 1832).

England, English law parts of the British Empire, and the United States: references.

I. In general:—

ALWARD, Lord Chief Justice Holt, 33 Canadian Law Times, p. 450.

— The evolution of Chancery, etc., 33 Id., p. 655.

AMOS, Roman law, pp. 443-57.

ANGLO-AMERICAN legal history, 3 vols., Boston, 1907-9.

ANGLO-SAXON law essays, Boston, 1876.

¹ WILLIAMS, Sources of law in the Swiss Civil Code, 1923.

- (1982) AYER, Legitimate marriage in Roman and Canon Law, 16 Harv. Law Rev., p. 22.
- BARTON, Commentary on the itineraries of Antoninus (1658).
- BEACH, The Civil Law in America, 44 Chicago Leg. News, pp. 375, 383, 391.
- BEDWELL, Irishmen at the Inns of Court, 37 Law Mag. and Rev., p. 268.
- BEKKER (article comparing Roman *aequitas* and modern equity in *Jahrbuch der Internat. Verein. für vergleich. Rechtswissenschaft*). (1897.)
- BELLOT, Inns of Chancery, their origin, etc., 38 Law Mag. and Rev., p. 189.
- Early law schools in London, 36 Law Mag. and Rev., p. 257.
- BIGELOW, Hist. of procedure in England, p. 56.
- BLACKSTONE, Commentaries, etc., vol. i, pp. 14, 19, 36, 79, 81, 83; vol. ii, pp. 421–2.
- BOOTH, *Examen legum Angliae* (1656).
- BRACTON, *De legibus et consuetud. Angliae* (Latin text with Eng. transl. by TRAVERS-TWISS, 6 vols., London, 1878–83).
- Notebook (ed. MAITLAND, 1887).
- and Azo (vol. viii, Selden Society Publications, 1895).
- Right use of, 4 Law Mag. and Rev., p. 454.
- see *infra* GÜTERBOCK.
- BRISSAUD, *Hist. du droit français*, 2 vols., Paris, 1904 (see index “droit anglais”).
- BRITTON (the French text with Eng. transl. by NICHOLS, 2 vols., Oxford, 1875).
- (an Eng. transl. only, Washington, 1901.)
- BROOM, *Legal maxims* (any edition).
- BROWNE, *View of Civil Law* (1802).
- BRUNNER, Sources of English law (in *Select Essays in Anglo-Am. Leg. Hist.*, vol. ii, pp. 7–52).
- BRYCE, *Studies in hist. and jurisprudence*, pp. 1–123, 669–907, New York, 1901.
- BUCKLAND, *Wardour St. Roman law*, 17 Law Quart. Rev., p. 179.
- BUTLER, *Horae juridicae subsecivae* (1804).
- CAILLEMER, *Le droit civil dans les provinces anglo-normandes*, Caen, 1883.
- CANADA, The law merchant in, 49 Canadian Law Journ., p. 637.
- CARSON, A plea for the study of Britton, 23 Yale Law Journ., p. 664.

- CARTER, Hist. of Eng. leg. institutions⁴ (1910).
- CASES tempore Finch, Wallace, *The Reporters*, p. 489.
- CHIPMAN, Beacon lights of the law, Bracton and Blackstone, 21 *Green Bag*, p. 327.
- CIVIL LAW, the, 6 *Albany Law Journ.*, p. 425.
- COLQUHOUN, Roman law, § 249.
- COMMERCIAL LAWS of the World, vols. vii-viii, xii-xiv, xvi-xviii, London, 1911 et seq.
- COWELL, Institutiones juris Anglicani ad methodum Institutionum imperial., etc. (1605).
- COXE, Admiralty law, 8 *Columbia Law Rev.*, p. 172.
- CRABB, Hist. of Eng. law, pp. 3, 59.
- CROSS, A recent hist. of Eng. law (Holdsworth's), 9 *Mich. Law Rev.*, p. 1.
- D'ARBOIS DE JUBAINVILLE, Cours de droit celtique, 2 vols., Paris, 1875.
- DENIS, Analogies and differences of the Civil and Common Law, 32 *Am. Law Rev.*
- DILLON, Laws and jurispr. of Eng. and America (1894).
- DUCK, De usu et auctoritate juris civilis Romanorum in domin. principum Christian., London, 1653 (especially book 2, ch. 8).
- (Eng. transl. by BEAVER of the part relating to England, London, 1724).
- EDWARDS, Bracton and his relation to the Roman civil law, 4 *Green Bag*, p. 196; 5 *Id.*, p. 348.
- Roman law in England, etc., 7 *Law Mag. and Rev.*, p. 38.
- EMMETT, Legal education in England, 54 *Alb. Law Journ.*, p. 181.
- ENGLISH and French criminal law, etc., 30 *Canadian Law Times*, p. 156.
- See 6 *Am. Law Rev.*, p. 598.
- FERGUSON, Development of law during Middle Ages especially in . . . England, 63 *Alb. Law Journ.*, p. 419.
- FLETA, see *infra* SELDEN.
- FULBECKE, A parallel or conference of the Civil, Canon, and Com. Law (1601-18).
- GAVET, Sources de l'histoire des institutions et du droit, etc., pp. 684-8, Paris, 1899.
- GLANVILLE (Eng. transl. by BEAMES, Wash., 1900).
- GREAT JURISTS of the world (vol. ii, *Continent. Leg. Hist. Series*), pp. 144-68, 185-247, 517-43.
- GÜTERBOCK, Henricus de Bracton, Berlin, 1862.

- (1982) — (Eng. transl. by Coxe, "Bracton and his relation to the Roman law," Phila., 1866).
- HADLEY, Lectures — notice of, 12 Alb. Law Journ., p. 176.
- HALE, Hist. of the Common Law⁶, ch. 7, London, 1820.¹
- HALLIFAX, Elements of the Civil Law in which a comparison is . . . made betw. the Rom. laws and those of Eng., London, 1818 (1st ed. 1774).
- HAVERFIELD, The Romanization of Roman Britain², London, 1913.
- HAZELTINE, Selden as a leg. historian, 24 Harv. Law Rev., pp. 105-18, 205-19.
- The formal contract of early Eng. law, 10 Columbia Law Rev., p. 608.³
- HOFFMAN, Course of legal study², vol. ii, pp. 479-558 (1836).
- HOLDSWORTH, Hist. of Eng. law, 3 vols., London, 1903-09.
- The place of leg. hist. in the education of Eng. lawyers, 10 Columbia Law Rev., p. 723.
- The legal profession in the 14th and 15th centuries, 23 Law Quart. Rev., p. 448.
- The reception of Roman law in the 16th century, 28 Law Quart. Rev., pp. 39, 131.
- HOLLAND, The Eng. barrister — a medieval figure, 42 Am. Law Rev., p. 735.
- Essays on the form of the law, p. 29.
- HOLMES, The debt of the Common Law to the Civil Law, 6 Maine Law Rev.
- Early Eng. equity, 1 Law Quart. and Rev., p. 162.
- HOLZENDORFF, Encyclopädie (see article by GRUEBER on Rom. and Eng. law).
- HOWE, Studies in the Civil Law and its relation to the jurispr. of Eng. and America², Boston, 1905.
- HUDSON, The judicial reforms of the reign of Henry II, 9 Mich. Law Rev., p. 385.
- HUNTER, Roman law⁴, pp. 107-16.
- JENKS, A short hist. of Eng. law, Boston, 1912.
- JONES, Cases as the orig. sources of the law, 6 Green Bag, p. 421.
- KENT, Commentaries¹⁴, etc., p. 545.
- KERLY, Hist. sketch of the equitable jurisdict. of . . . Chancery, Cambridge, 1889.
- LA BEAUME, What one has to learn to be a lawyer, 3 Am. Law School Rev., p. 247.

¹ HALE, The teaching of law at Oxford University, 12 American Bar Assn. Journal, p. 703 (1926).

² HAZELTINE, Vacarius as glossator and teacher, 44 Law Quart. Rev., p. 344 (1928).

- LANGDELL, Influence of the Civil Law on the Common Law, 9 Harv. Law Rev., p. 442.
- Common Law pleading as compared with that in Civil and Canon Law, 11 Harv. L. Rev., pp. 139, 155.
- LEAMING, A Phila. lawyer in the London courts, New York, 1911.
- LEFROY, The Anglo-Saxon period of English law, 26 Yale L. Jour., p. 291.
- LEHR, *Éléments de droit civil anglais*², Paris, 1905.
- LEONHARD, Vocation of America for . . . Roman law, 26 Harv. L. Rev., p. 389.
- Remembrances of a German teacher of Rom. law, 18 Yale L. Jour., p. 583.
- LIEBERMANN, *Die Gesetze der Angel-sachsen*, Halle, 1903 et seq.
- *Quadripartitus*, ein englisches Rechtsbuch v. 1114, Halle, 1892.
- Ueber d. engl. Rechtsbuch 'Leges Henrici', Halle, 1901.
- LICHENSTEIN, Date of separation of ecclesiast. and lay jurisdic. in England, 3 Ill. Law Rev., p. 347.
- LOBINGIER, Blending leg. systems, 21 Law Quart. Rev., p. 401.
- Civil Law rights and Common Law remedies, etc., 20 Jurid. Rev., p. 97.
- The value and place of Roman law in the technical curriculum, 1 So. Law Qt., p. 117.
- LOUISIANA, How the adoption of the Common Law was prevented by Livingston, 57 Cent. Law Journ., p. 393.
- LUCAS, Greater Rome and . . . Britain, London, 1913.
- MACHEN, Corporate personality, 23 Harv. Law Rev., pp. 253, 347.
- MACKELDEY (Dropsie, Eng. transl.), Roman law¹⁴, § 96.
- MACKENZIE, Roman law⁷, pp. 44-6.
- MAINE, Ancient law, ch. 2.
- Village communities, p. 332.
- MAITLAND, Collected papers, 3 vols., Cambridge, 1911: vol. i, pp. 480-97; vol. ii, pp. 1-60, 81-3, 190-201, 417; vol. iii, pp. 50-77, 87-105, 137-56, 432-9, 447-73.
- 8 L w Quart. Rev., p. 73.
- 14 Law Quart. Rev., p. 13.
- Canon Law in England, London, 1898.
- MARSDEN, Select pleas in the Court of Admiralty (in *Selden Society Publications*).

- (§982) MARSHALL, Rom. law: its study in Eng., 26 Law Mag. and Rev., p. 288.
- McILWRAITH, English, etc. Bars, 14 Law Qu. R., p. 169.
- McMURRAY, Foreign influences in Eng. and American law, Case and Comment, Dec. (foreign law), 1916.¹
- MIRROR OF JUSTICES (to be found in Selden Society Publications, 1895; also in Horne's work of 1903).
- MOREY, Roman law, pp. 189-91, 198-203.
- MORRIS, Hist. of law, pp. 246-311, Wash., 1909.
- MUNRO, Genesis of Roman law in America, 22 Harv. Law Rev., p. 529.
- NICHOLS, see *supra* BRITTON.
- NYS, Le droit romain, le droit des gens, et le collège des docteurs en droit civil (Angleterre), Brussels, 1910.
- OXFORD, Notice as to degree of B.C.L., 14 Harv. Law Rev., p. 164.
- PANDECTS, Discovery of, 12 Green Bag, p. 184.
- PARDESSUS, Lois maritimes, etc., 6 vols., Paris, 1828-45 (vol. i, pp. 283-354, Laws of Oléron).
- PHILLIMORE, Hist. of law of evidence, pp. 1-70.
- POLLOCK, English law before the Norman conquest, 14 Law Quart. Rev., p. 291.
- Vocation of the Common Law, 11 Law Quart. Rev., p. 323.
- Contracts in early Eng. law, 6 Harv. L. R., p. 389.
- Expansion of the Common Law, 3 Columbia Law Rev., p. 505; 4 Id., pp. 4, 11, 96, 116, 171.
- POLLOCK and MAITLAND, Hist. of English law to Edward I, 2d ed., 2 vols., London, 1898. See vol. i, pp. 2-5, 9, 14, 22-4, 111-12, 116-20, 122, 165, 188, 207, and 223.
- RADCLIFFE, Leg. develop. in England after the Restoration, 33 Canadian Law Times, p. 626.
- RATTIGAN, Recent literature of Rom. law in England, 9 Law Mag. and Rev., p. 382.
- REEVES (Finlason, ed.), Hist. of English law², vol. i, pp. xvii-xlii, 1-128, Lond., 1869.
- ROBINSON, American recognition of the Roman . . . law (Illinois Law Journal, Jan., 1915).
- ROMAN law in England, etc., 7 Law Mag. and Rev., p. 38.
- ROMERO, Anglo-Saxon and Roman systems of criminal jurispr., 8 Green Bag, p. 410.
- ROSCOE, Growth of English law, London, 1911.
- SAGOT, La Bretagne romaine, Paris, 1912.

¹ MILLAR, Civil pleading under Anglo-American and Continental systems, 12 American Bar Assn. Journal, p. 401 (1926).

- *Id.*, 36 *Revue gén. du droit*, p. 434.
- SALMOND, Names and nature of the law, 15 *Law Quart. Rev.*, p. 367.
- History of contract, 3 *Law Quart. Rev.*, p. 166.
- SAVIGNY, Geschichte d. röm. Rechts im Mittelalter², ch. 10 (§§ 58-9), ch. 21, ch. 36.
- SCHMID, Die Gesetze der Angelsachsen², Leipzig, 1858.
- SCRUTTON, Influence of the Roman law on the law of England, Cambridge, 1885.
- Roman law influence, etc. (in *Select Essays Anglo-Am. law*, vol. i, p. 208).
- Roman law in Bracton, 1 *Law Quart. Rev.*, p. 425.
- SELDEN, *Dissertatio ad Fletam* (1685).
- *Dissertation annexed to Fleta* (Eng. transl., London, 1771).¹
- SMITH, *Republic* (1640).
- Roman law in Am. law schools, 36 *Am. Law Reg.*, p. 175.
- Problems of Roman leg. history, 4 *Columbia Law Rev.*, p. 523.²
- SPENCE, The equitable jurisdiction of the Court of Chancery, vol. i, pp. 1-128 (1846).
- ¹ SENIOR, *England and the Medieval Empire*, 40 *Law Quart. Rev.*, p. 483 (1924).
- , *Roman Law MSS. in England*, 47 *Law Quart. Rev.*, p. 337 (1931).
- ² SMITH, *Legal education in Canada*, 4 *American Law School Review*, p. 734.
- STEPHEN, *Commentaries*¹⁵, (§ 982) etc., vol. i, p. 11; vol. ii, p. 224; vol. iii, p. 390. London, 1914.
- *Hist. of criminal law of England*, vol. i, p. 49.
- STEPHENS, *Sketch of the Civil and Canon Laws in Eng.*, 35 *Am. Law Reg.*, p. 141.
- STORY, *Bailments*, § 8.
- STRAHAN (Eng. transl. of Domat's Civil Law with additional remarks betw. the Civil Law and the law of Eng., 1722).
- TAYLOR, *Eng. and Roman law as world systems* (in *So. Carolina Bar Ass'n Reports*, 1910).
- A new era in legal development, 189 *North Am. Rev.*, p. 641.
- Comparative study of Roman and Eng. law, 15 *Law Quart. Rev.*, p. 330; *La. Bar Ass'n Reports*, 1899.
- TEIGNMOUTH, *Memoirs of Sir William Jones*, vol. ii, p. 168.
- TRAVERS-TWISS, The 12th century as the age of scientific jurisprudence, 19 *Law Mag. and Rev.*, pp. 181, 196.
- Ricardus Anglicus and the 13th cent., the age of scientif. treatment, 20 *Law Mag. and Rev.*, p. 1.

- (1982) — Hist. of Eng. law before the time of Edward I, 21 *Law Mag. and Rev.*, p. 5.
- The Black Book of admiralty, 4 vols., London, 1871-6.
- See *supra* BRACTON.
- TUDSBURY, Equity and the Common Law, 33 *Canadian Law Times*, p. 679.
- VINOGRADOFF, Roman law in medieval Europe, pp. 84-105, New York, 1909.
- Text of Bracton, 4 *Law Quart. Rev.*, p. 425.
- Bracton's Notebook, 4 *Law Quart. Rev.*, p. 436.
- WAKELY, Influence of the Rom. law on the Common Law (in Nebraska Bar Ass'n Rep. for 1908).
- WARREN, Notes on early hist. of leg. studies in Eng., 25 *Law Mag. and Rev.*, pp. 51, 153, 389.
- Hist. of American Bar, Boston, 1911.
- WENCK, Magister Vacarius etc., Leipzig, 1820.
- WHITEWELL, Libraries of a Civilian, Canonist, and a Common Lawyer, etc. (13th century), 21 *Law Quart. Rev.*, p. 393.
- WILLIAMS, Institutes of Justinian illustrated by Eng. law², London, 1893.
- Latin maxims in Eng. law, 20 *Law Mag. and Rev.*, p. 283.
- Procedure in poetry, 22 *Law Mag. and Rev.*, p. 224.
- Speculum and Mirror, 26 *Law Mag. and Rev.*, p. 161.
- Law in the emblem writers, 27 *Law Mag. and Rev.*, p. 257.
- Legal etymology, 28 *Law Mag. and Rev.*, p. 257.
- Roman law in Eng. decisions, 29 *Law Mag. and Rev.*, p. 139.
- Comparative Roman law, 30 *Law Mag. and Rev.*, pp. 70, 149.
- Law of the universities, London, 1910.
- WINCHESTER, Trial by jury of Roman origin, 9 *Green Bag*, p. 35.
- The Civil Law, 6 *Alb. Law Journ.*, p. 425.
- Roman jurisprudence, 52 *Alb. Law Journ.*, p. 171.
- WISEMAN, Law of laws (1686).
- WOOD, Institutes of the imperial Civil Law⁴, p. 11 (1730).
- YEAR BOOKS of Edward I et seq. (especially vol. ii, Selden Society Publications).

II. Codification: —

- AMERICAN CORPUS JURIS, 22 *Green Bag*, pp. 59-113 (1910).

- Docket for Sept., 1912.
- 70 Cent. Law Journ., pp. 127, 175.
- 20 Bench and Bar, p. 43.
- 94 Outlook, p. 792.
- AMERICAN JUSTINIAN needed, 68 Independent, p. 485.
- wanted, 41 Am. Rev. of Rev., p. 474.
- AMERICAN UNIFORM ACTS (compilation published, Cincinnati, 1910).
- AMOS, An English code (1873).
- The science of law, pp. 360-93, New York, 1874.
- ANDREWS, The next great step in jurisprudence, 19 Yale Law Journ., p. 485.
- The classification of law, 22 Green Bag, p. 556.
- AUSTIN, Jurisprudence³, vol. ii, pp. 669-704, 1129-37, London, 1869.
- BRANNAN, Negotiable Instruments law annotated, Cincinnati, 1911.
- BRYCE, Studies in hist., etc., pp. 103-12, New York, 1901 (Indian codes).
- BURDICK, A revival of codification, 10 Columbia Law Rev., p. 118.
- DOUGLAS, Needed: a uniform law merchant, 1 Georgetown Law Journal, p. 202.
- DOWDALL, Codification of the law of general average, 11 Law Quart. Rev., p. 32.
- DURRAN, The lawyer, our old-man-of-the-sea, London, 1913.
- FREUND, A proposed uniform marriage law, 24 Harv. Law Rev., p. 548.
- GREGORY, Bentham and the codifiers, 13 Harv. Law Rev., p. 344.
- HART, The uniformity of British law, 32 Canadian Law Times, p. 167.
- The need for codifying the law of England, 36 Law Mag. and Rev., p. 129.
- HENING, The uniform negotiable instruments law: is it producing uniformity and certainty? 59 Penn. Law Rev., p. 471.
- JUDSON, A modern view of the law reforms of Bentham 10 Columbia Law Rev., p. 41.
- KLINGELSMITH, "Stonore said," 61 Penn. Law Rev., p. 381; 33 Canadian Law Times, p. 600 (an attack on codification).
- MACK (see 6 Illinois Law Rev., p. 62).
- MARKBY, Codification, etc., 3 Law Mag. and Rev., p. 259.
- PATTON, Codification — "Festina lente," 59 Penn. Law Rev., p. 203.
- POLLOCK, The India Contract Act, London, 1909.

- (§ 982) POUND, Uniformity of commercial law on the Continent, 8 Mich. Law Rev., p. 91.
- RANDALL, The resurrection of our criminal code (Eng.), 27 Law Quarterly Rev., p. 209.
- ROOT, Reform of judicial procedure, 23 Green Bag, p. 111.
- SEMMES, The Civil Law and codification (in Am. Bar Ass'n Rep. for 1886).
- SHELTON, Relation of judicial procedure to uniformity of law, 72 Cent. Law Journ., p. 114.
- SHEPPARD, Decadence of the system of precedent, 24 Harv. Law Rev., p. 298.
- SMITH, The cry for law reform, 20 Yale Law Journal, p. 292.
- Outlook for uniformity of legislation, 23 Green Bag, p. 619.
- STOKES, The Anglo-Indian Codes, 2 vols. and suppl., Oxford, 1887-91.
- TARACHAND, A plea for codification, 13 Bombay Law Reporter, p. 25.
- TAYLOR, The unification of American law, 22 Green Bag, p. 267.
- TEISEN, The false theory of the binding force of precedent, 76 Cent. Law Journ., p. 147.
- TERRY, The arrangement of the law, 22 Green Bag, p. 499.
- WALTON, Civil codes and their revision. The title: "of ownership," 1 So. Law Qt., p. 95.
- III. See also supra §§ 963, 967, 977; vol. i, §§ 361-412.

CHAPTER II

SUBJECT-GUIDE TO VOL. II:

LISTS OF THE PERTINENT TEXTS OF ROMAN LAW AND OF THE PRINCIPAL MODERN CODES; REFERENCES TO PERTINENT MODERN LEGAL LITERATURE

**Periods, terms, and general principles of Roman law: refer- § 983
ences.**

I. Texts of Roman law:—

For English translations,
see supra §§ 945, 946, 948,
951, 952, 955.

(a) Ante-Justinian:

XII TABLES, 1, 1; ix, 6; xii, 5.

GAIUS, 1, 1-8.

ULPIAN, Reg. 1, 1-4.

COD. THEOD. 1, 1 De con-
stitution. principum, etc.

— 1, 2 De . . . rescriptis.

— 1, 3 De mandatis prin-
cipum.

— 1, 4 De responsis pru-
dent.

— 5, 20 De longa con-
suetud.

NOV. VALENTIN. 4 In . . .
rescriptum, etc.

(b) Justinian:

INST. 1, 1, De justitia, etc.

— 1, 2 De jure natural., etc.

DIG. 1, 1 De justitia, etc.

— 1, 3 De legibus, etc.

— 1, 4 De const. principum.

— 1, 5 De statu.

— 22, 6 De juris et facti
ignorantia.

— 50, 16 De verb. signif.

— 50, 17 De . . . regulis,
etc.

CODE, 1 14 De legibus et
const. principum, etc.

— 1, 15 De mandatis prin-
cipum, etc.

— 1, 16 De senatusconsult.

— 1, 18 De juris et facti
ignorantia.

— 1, 23 De . . . rescript.
et pragmat. sanction.

— 6, 38 De verb. . . .
signif.

— 8, 52 (53) . . . Longa
consuetud.

Nov. 17 De mandatis prin-
cipum.

(§983) — 131 De ecclesiastic., etc.

(c) **Post-Justinian:**

THEOPHILUS, 1, 1 De justitia, etc.

— 1, 2 De jure naturale, etc.

EPANAGOGA, 1 De jure et just.

BAS. 2, 1 De just. et jure et longa consuetud.

— 2, 2 De verb. signif.

— 2, 3 De . . . regulis, etc.

— 2, 4 De facti et juris ignorantia.

— 2, 5 De precibus imperator., etc.

— 2, 6 De principibus et . . . constitution. et rescript., etc.

HEXABIBLOS, preface, *Judicium praeparatio sive . . . justitia*.

— 1, 1 De legibus.

— 1, 13 De mulieribus.

— 1, 15 De obscuro et ambiguo.

— appendix 2, De . . . regulis.

— appendix 3, De signif. verb.

— *Leges agrariae*, praefatio.

II. Modern references:—

(a) **In general:**

AUSTIN, *Jurisprudence*³ (lectures 1-2, 12, 28-30, 37-8), vol. i, pp. 38-224, 353-67; vol. ii, pp. 525-67, 641-69.

BUCKLAND, *Wardour St. Roman law*, 17 *Law Quart. Rev.*, p. 179.

COLQUHOUN, *Roman law*, §§ 282-345.

EFFINGER *v.* LEWIS, 32 *Pa. St. Rep.*, 367.

EMERTON, *The threefold division of Roman law*, 5 *Law Quart. Rev.*, p. 93.

GIRARD, *Droit romain*⁵, pp. 1-8.

GOUDY, *Trichotomy in Roman law*, Oxford, 1910.

HUNTER, *Roman law*⁴, pp. 122 et seq.

— *Classification of the Roman civil law*, 1 *Law Mag. and Rev.*, p. 164.

MACKELDEY (*Dropsie*), *Roman law*¹⁴, §§ 1-17, 123-27.

MACKENZIE, *Roman law*⁷, pp. 60-63.

MAXIMS, *Influence of Roman law on*, *Law Mag. and Rev.* for Aug., 1895.

MOREY, *Roman law*, pp. 219-26.

MOYLE, *Roman law*⁵, vol. i, pp. 14-20, 97-109.

PETIT, *Droit romain*⁷, §§ 1-4, 61.

PHILLIMORE, *Principles and maxims of jurisprudence*, London, 1856.

POSTE, *Gaius*⁴, pp. 1-18.

ROBY, *Roman private law*, vol. i, pp. 1-7.

- SAVIGNY, System, etc., vol. i, §§ 7-53, and appendices 1 and 2; vol. viii, §§ 360-61, 398, 400.
 SOHM (Ledlie³), Roman law, pp. 22-33.
 WALTON, Roman law², pp. 338-79.
 WILLIAMS, Legal etymology, 28 Law Mag. and Rev., p. 257.
- ARGENTINA, 1-22.
 AUSTRIA, 1-14.
 CHILE, 1-18, 52-3.
 FRANCE, 1-6.
 ITALY, 1-12.
 LOUISIANA, 1-23, 3556.
 PHILIPPINES, 2-11, 16.
 PORTO RICO, 1-21.
 QUEBEC, 10-15, 17.
 SPAIN, 1-16.
 SWITZERLAND, 1-4.

(b) **Modern codes:**

References are to the Civil Code, unless otherwise stated.

III. See also supra §§946-51, 955; vol. 1, §§ 29-51, 53-133, 135-9, 166-84, 189, 194-5; vol. ii, §§ 413-27.

Freedom and slavery: references.

§ 984

I. **Texts of Roman law:—**

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) **Ante-Justinian:**

XII TABLES, v. 8-11; vi, 6.
 GAIUS, 1, §§ 9-54, 82-92; 3, §§ 39-76.

PAULUS, Sent. i, 1a, 2, 4 and 6a; ii, 9, 21a, and 24, 1-4; ii, 32; iii, 2 and 3; iv, 10, 12, 13, 13a, 14, 14a; v, 10, 13, 16, 30b.

ULPIAN, Reg. titles 1, 2, 27, 29.

COD. GREGORIAN. De bonis libert. Caesaris.

COD. HERMOGENIAN. De

eorum contract. qui alieno juri subjecti sunt.

— Ad SC. Claudianum.
 COLLATIO MOSAIC. ET ROM. title 3 De jure et saevitia dominorum.

COD. THEOD. ii, 31, 32; iv, 7-10, 12; v, 8, 16; ix, 6 and 9; x, 12; xi, 3; xiv, 18, xv, 8; xvi, 9.

CONST. SIRMONTIAN, 5.

NOV. ANTHEMIUS, 1.

— VALENTINIAN, 25 and 33.

(b) **Justinian:**

INST. i, 3-8; iii, 7-8, 11, 17.

DIG. i, 5-6; xi, 1-2; xv, 1-4; xxv, 3; xxxviii, 1-5; xl, 1-16; xliii, 29, 31, 32; xlv, 3; xlvii, 4; xlviii, 15.

- (§984) CODE, i, 13, 25; ii, 30 (31); iii, 22, 42; iv. 13, 14, 26, 27, 36, 42, 55-8; vi, 1-8; vii, 1-24; viii, 8, 51, (52); ix, 11, 14, 20, 21; x, 33 (32), 58 (56); xi, 41 (40), 63 (62), 64 (63), 68 (67); xii, 33 (34).
 NOV. 32-4, 78.
- (c) **Post-Justinian:**
- THEOPHILUS, i, 3-8; iii, 7-8, 11, 17.
 ECLOGA, 8.
 PROCHIRON, 23 and 34.
 EPANAGOGA, 37.
 BAS. vii, 15; x, 13; xvi, 7; xviii, 1-3, 5-8; xix, 7, 17; xxiv, 4, 5; xxxi, 1, 2, 6; xxxiii, 2; xxxiv, 2; xxxv, 13, 16; xl, 7; xliii, 3; xlv, 6, 11; xlvi, 1; xlviii, 1-26; xlix, 1-6; lv, 11; lx, 6, 7, 13, 47, 48, 59.
 HEXABIBLOS, i, 14, 18; v, 3; vi, 12, 13; *Leges agrariae*, 9.
- II. Modern references: —**
- BUCKLAND, *The Roman law of slavery*, Cambridge, 1908.
 COLQUIHOUN, *Roman law*, §§ 412-89.
 CUQ, *Institutions jurid. des romains*, vol. ii, pp. 68-77, Paris, 1891.
 DEMANGEAT, *Droit romain*, pp. 148-220.
 DESSERTAUX, *Le cas de la femme d'Arretium* (Mélanges Gérardin, pp. 181-96, Paris 1907).
 DEURER, *Gesch. und Inst. des röm. Rechts*, § 104.
 FOWLER, *Social life at Rome in the age of Cicero*, pp. 204-36, New York, 1909.
 GIRARD, *Manuel de droit romain*⁵, pp. 93-103.
 HUNTER, *Roman law*⁴, pp. 157-86.
 LEAGE, *Roman law*, pp. 45-64.
 MACKELDEY (*Dropsie*), *Roman law*¹⁴, §§ 131, 132.
 MAREZOLL, *Lehrbuch*, etc., §§ 154-70.
 PELLISON, *Roman life in Pliny's time*, pp. 80-110, New York, 1897.
 PETIT, *Traité de droit romain*⁷, §§ 63-5, 258-9, 477.
 PULCIANO, *Il diritto romano nell' Epist. di Plinio*, etc., Turin, 1913.
 SAVIGNY, *System*, vol. viii, § 396.
 SHUMWAY, *Freedom and slavery in Roman law*, 40 *Am. Law Reg.*, p. 636.
 SMITH, *Dict. of antiquities*, "Ingenuus", "Libertus", "Manumissio", "Servus".
 SOHM (*Ledlie*³), *Roman law*, pp. 165 et seq.
 TAYLOR-TASWELL, *Greek and Roman jurisprudence in relation to slavery*, 4 *Law Mag. and Rev.*, p. 189.

WALLON, *Hist. de l'esclavage*,
vol. ii.

III. See also *infra* § 1021;
supra vol. i, § 58; vol. ii,
§§ 432, 434-40, 452.

Citizenship: references.

§ 985

I. Texts of Roman law: —

For English translations, see
supra §§ 945, 946, 948, 951,
952, 955.

(a) Ante-Justinian:

XII TABLES, vi, 5.

LEX Antonia, etc.,

— municipii Tarentini,

— Julia municipalis,

— Rubria de Gallia Cisal-

pina: all four leges are
translated by HARDY, *Six*

Roman laws, Oxford, 1911.

GAIUS, i, §§ 18, 28-35, 65-81,
88-96, 160.

PAULUS, *Sent.* i, 1a, 9-30; v,
30b.

ULPIAN, *Reg.* title 3.

COD. THEOD. iv, 23; v, 17-19;

xi, 24; xii, 19; xiii, 3-9;

xiv, 10, 12, 13, 15.

NOV. MARJORIAN. 8.

— VALENTINIAN. 9-11, 31

(b) Justinian:

INST. i, 5, § 3.

DIG. 50, titles 1, 4-6.

CODE, vii, 5-6; x, 17, 18, 38

(37)-40 (39), 43 (42), 48

(47)-57 (56), 60 (58), 64

(62)-73 (71); xi, 22 (21),

47 (46)-54 (53), 56 (55), 58

(56), 63 (62), 64 (63), 68

(67), 69 (68).

NOV. 156, 157, 160.

CONST. DISPERSAE (in appen-
dix to NOV.) 1, 6, 9.

(c) Post-Justinian:

THEOPHILUS, i, 5, § 3.

BAS. xlv, 2; liv, 1-7, 34; lv,
1-5, 7-9, 11-13; lx, 19.

HEXABIBLOS, i, 13; ii, 5, 7;
vi, 8; *Leges agrariae*, 1-3.

II. Modern references: —

AMOS, *Roman law*, p. 116.

ARNOLD, *Roman provincial ad-
ministration*?, pp. 11-12, 62,
71-4, 243-6, Oxford, 1906.

BOTSFORD, *Roman assemblies*
pp. 2, 24, 38, 43, 181, 353,
397, 401, New York, 1909.

BRY, *L'édit de Caracalla de*
212, etc., Paris, 1913.

CITIZENSHIP of Civil Law
commercial societies, 15
Harv. Law Rev., p. 60.

COLQUHOUN, *Roman law*,
§§ 371-400.

CUQ, *Institutions jurid. des*
romains, vol. ii, p. 71.

FRONTINUS, *De coloniis Ital-*
iae.

GIRARD, *Manuel de droit*
*romain*⁵, pp. 104-34.

HADLEY, *Roman law*, p.
104.

- HEINECCIUS, *Antiq. Rom. syntagma*, appendix, book i, ch. i-iv.
- HUNTER, *Roman law*⁴, pp. 186-8.
- INVREA, *Ricerche di diritto pub. romano nelle vite . . . di Suetonio* (excerpt from the Filangieri of 1913).
- JUSTER, *La condition légale des Juifs sous les rois visigoths* (in vol. ii, *Études d'hist. jurid. off. à P. F. Girard*, pp. 275-336, Paris, 1913).
- LEAGE, *Roman law*, pp. 64-6.
- MACKELDEY (Dropsie), *Roman law*¹⁴, §§ 43, 131-2.
- MACKENZIE, *Roman law*⁷, pp. 76, 79.
- MADVIG, *De jure et conditione coloniarum*.
- MARQUARDT, *Röm. Staatsverwaltung*, I, pp. 18-425.
- MAY, *Droit romain*, pp. 77-84.
- MOMMSEN, *Röm. Staatsrecht*, book iii.
- MOREY, *Roman law*, pp. 47-58.
- MOYLE, *Inst. of Justinian*, vol. i, 5th ed., pp. 26, 116-18.
- PETIT, *Traité de droit romain*⁷, §§ 66-77.
- POSTE, *Gaius*⁴, pp. 28, 31, 60, 93-7, 296, 305, 308.
- PULCIANO, *Il diritto romano nell' Epist. di Plinio*, etc., Turin, 1913.
- ROBY, *Roman private law*, vol. i, pp. 36-46.
- SANDS, *Client princes of the Roman Empire*, Cambridge, 1906.
- SAVIGNY, *System*, etc., vol. ii, §§ 64, 66.
- SOHM (Ledlie³), *Roman law*, pp. 110, 173-6, 178, 180.
- WALTER, *Geschichte des röm. Rechts*, i, §§ 99-270.

III. See also supra § 984, infra § 987; supra vol. i, § 58; vol. ii, §§ 432, 437-44, 452-3.

§ 986 **Emancipation, majority, *venia aetatis*, and *in integrum restitutio*: references.**

I. **Texts of Roman law:—**

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) **Ante-Justinian:**

GAIUS, 1, §§ 129-32.

PAULUS, *Sent.* 1, 7 *De integri restitutione*.

—1, 9 *De minoribus* xxv ann.

—1, 9a (on *in integrum restit.*).

ULP. *Reg.* 10 *Qui in potestate . . . liberentur*.

EMANCIPATION, MAJORITY, AND MINORITY 89

- COD. GREGORIAN. 2 Si adv. donationes . . . in integrum restit.
- 3 Si major, etc.
- COD. THEOD. 2, 16 De integri restitutione.
- 2, 17 De his qui veniam aetatis impetrarunt.
- 3, 32 De praediis minorum, etc.
- 8, 14 De ingratis liberis.
- (b) **Justinian:**
- INST. 1, 12, §§ 5–6.
- DIG. 4, 1 De integrum restitutionibus.
- 4, 4 De minoribus xxv annis.
- 4, 6 Majores xxv annis in integrum restit.
- 37, 8 De conjung. cum emancipato, etc.
- CODE, 2, 21 (22) De integrum restit. minor. xxv annis.
- 2, 22 (23) De filio fam. minore.
- 2, 23 (24) De fidejussor. minorum.
- 2, 24 (25) Si tutor vel curator, etc.
- 2, 25 (26) Si . . . in integrum restitutio, etc.
- 2, titles 26 (27)–41 (42) relate to in integrum restitutio.
- 2, 42 (43) Si minor se majorem dixerit, etc.
- 2, 43 (44) Si saepius in integrum restitutio postuletur.
- 2, 44 (45) De his qui veniam aetatis impetraverunt.
- 2, 45 (46) Si major factus ratum habuerit.
- 2, titles 46(47)–52(53) relate to in integrum restitutio.
- 2, 53 (54) Quibus ex causis majores in integr. restitutio.
- 2, 54 (55) De alienatione judicii, etc. (in integr. restit.).
- 4, 13 Ne filius pro patre vel pater pro filio emancipato, etc.
- 5, 39 Quando . . . minores, etc.
- 5, 40 Si . . . pro minore, etc.
- 5, 71 De praediis vel aliis rebus minorum, etc.
- 5, 73 Si quis ignorans rem minoris, etc.
- 5, 74 Si major factus, etc.
- 8, 48 De emancipation. liberorum.
- 8, 49 (50) De ingratis liberis.
- Nov. 72 Ut . . . res minorum, etc.
- (c) **Post-Justinian:**
- THEOPHILUS, 1, 12 §§ 5–6.

(§986) PROCHIRON, 26 De emancipatione.

— 31 De restitutione.

BAS. 10, titles 1-24 relate to in integrum restitutio.

— 10, 25 Si minor se majorem dixerit, etc.

— 10, 26 Si saepius in integr. restitutio postuletur.

— 10, 27 De his qui veniam aetatis impetraverunt.

— 10, 28, Si major factus, etc.

— 10, titles 29-34 relate to in integrum restitutio.

— 10, 35 Quibus ex causis majores xxv annis in integr. restit.

— 10, 36 Quibus ex causis majores in integr. restit.

— 10, 37 De judicii mutatione (in integr. restit.).

— 31, 3 De emancipatione, etc.

— 37, 9 Ex . . . facto . . . minores, etc.

— 40, 6 Si a parentibus quis emancipatus, etc.

HEXABIBLOS, 1, 12 De impuberibus et minoribus, aequae in integrum restit.

— 1, 17 De potestatis patriae dissolutione.

II. Modern references:—

AMOS, Roman law, pp. 108, 363.

BRISSAUD, History of French private law (vol. iii, Cont.

Leg. Hist. Series, Boston, 1912), pp. 198, 258-66.

COLQUHOUN, Roman law, §§ 529, 712, 721, 727, 774, 1135, 1145, 1270, 1511, 1865-81, 2055-61, 2183.

GIRARD, Manuel de droit romain⁵, pp. 181-3, 189-92, 229-34.

HUNTER, Roman law⁴, pp. 41, 212-14, 593, 608-9, 743, 991, 1028.

MACKELDEY (Dropsie), Roman law¹⁴, §§ 138, 174, 178, 220-33, 610-13, 642.

MACKENZIE, Roman law⁷, pp. 74, 141, 154, 155, 263.

MOYLE, Inst. of Justinian, vol. i, 5th ed. pp. 145, 563-7, 602.

PETIT, Droit romain⁷, §§ 97, 103, 124, 130, 811.

POSTE, Gaius⁴, pp. 80, 114-16, 193.

ROBY, Roman private law, vol. i, pp. 77, 123; vol. ii, pp. 259, 262.

SAVIGNY, System, vol. iii, § 106 (4); vol. vii, §§ 322-43.

SOHM (Ledlie³), Roman law, pp. 57, 58, 181, 210, 294-6, 486-8, 541.

III. See also *infra* § 992 (paternal power) and § 993 (guardianship); *supra* vol. ii, §§ 437, 446-9.

**Birth, natural death, civil death, infamia or existimationis § 987
minutio, proof of life and death: references.**

I. Texts of Roman law:—

For English translations, see
supra §§ 945, 946, 948, 951,
952, 955.

(a) Ante-Justinian:

XII TABLES, viii, 22 (on infamy).

GAIUS, 1, §§ 128, 159–64 (on civil death).

PAULUS, Sent. 2, 24, §§ 6–10
De liberis agnoscendis.

(b) Justinian:

INST. 1, 12, §§ 1–3 (on civil death).

— 1, 16 (partly on civil death).

— 3, 1, § 5 (civil death).

DIG. 3, 2 De . . . infamia.

— 34, 5 De rebus dubiis
(partly on proof of life and death).

— 47, 12 De sepulchro violato (infamy).

CODE, 2, 11 (12) De . . . infamia, etc.

— 10, 59 (57) De infamibus.

— 10, 61 (59) De his qui in exsilium, etc.

Nov. 60 Ut defuncti seu funera eorum non injurientur, etc.

(c) Post-Justinian:

THEOPHILUS, 1, 12, §§ 1–3 (on civil death).

— 1, 16 (partly on civil death).

— 3, 1, § 5 (civil death).

BAS. 21, 1 De testibus integrae existimationis et infamibus.

— 21, 2 De his qui notantur infamia.

— 21, 3 De . . . infamia.

— 31, 7 De ventre praegnantis inspiciendo, etc.

— 31, 8 Si mulier ventris, etc.

— 31, 9 Si mulier ventris, etc.

— 43, 7 De multis, quae ex condemnatione judicum veniunt.

— 46, 1 De statu hominum, etc.

HEXABIBLOS, 6, 9 De calumniatoribus, etc.

— 6, 15 De iis qui infamia notantur.

— 6, 16 (on infamy).

II. Modern references:—

AMOS, Roman law, pp. 56, 112–13, 192.

BIWIN, De l'absence — étude de droit comparé, 9 Revue de droit internat., p. 489.

BRISAUD, Hist. of French private law, vol. iii, Cont. Leg. Hist. Series, pp. 468, 658, 880, 884–5.

COLQUHOUN, Roman law, § 367.

- DE COLYAR, Presumptions of death and survivorship in England and elsewhere, 11 *Journal of Compar. Legis.* no. 24 N. S., p. 255 (1911).
- GIRARD, *Droit romain*⁵, pp. 195-200, 839-40.
- GREENIDGE, *Infamia in Roman law*, Oxford, 1894.
- HUNTER, *Roman law*⁴, pp. 431-2.
- MACKELDEY (Dropsie), *Roman law*¹⁴, §§ 133 note 6, 135, 137, 153.
- MOYLE, *Inst. of Justinian*, vol. i, 5th ed., pp. 124-44.
- PETIT, *Droit romain*⁷, § 135.
- POSTE, *Gaius*⁴, pp. 96-7.
- SAVIGNY, *System*, vol. vii, §§ 326-9 (absentees).
- SOHM (Ledlie³), *Roman law*, pp. 182-5.
- TITANIC disaster as raising quest. of survivorship, 74 *Cent. Law Journ.*, p. 416.
- III. See also *supra* vol. ii, §§ 432, 450-56.

§ 988 **Betrothal, relationship (agnation and cognation), affinity, marriage, dos, donatio ante or propter nuptias, parapherna, second marriages, concubinage: references.**

I. **Texts of Roman law:—**

For English translations, see *supra* §§ 945, 946, 948, 951, 952, 955.

(a) **Ante-Justinian:**

XII TABLES, iv, 4; vi, 4; xi.

GAIUS, i, 59-96, 155; iii, 10-11.

PAULUS, *Sent.* 2, 19 *De nuptiis*.

— 2, 20 *De concubinis*.

— 2, 21a *De mulieribus . . . ad SC. Claudianum*.

— 2, 21b *De dotibus*.

— 2, 22 *De pactis inter virum et uxorem*.

— 2, 23 *De donation. inter vir. et ux.*

— 4, 11 *De gradibus*.

ULPIAN, *Reg.* 6 *De dotibus*.

— 7 *De . . . donation. inter vir. et ux.*

— 9 *De his qui in manu sunt*.

— 13 *De caelib. orbo*, etc.

— 14 *De poena legis Juliae*.

— 15 *De decimis*.

— 16 *De solidi capacitate inter vir. et ux.*

COD. GREGORIAN. 2 *Si adv. donationes sponsis*, etc.

— 5 *De sponsalibus*.

— 5 *De nuptiis*.

— 11 (on *dos*).

COD. HERMOGENIAN. *De nuptiis*.

— *De donation. inter vir. et ux.*

COD. THEOD. 2, 5 De dominio rei quae . . . consortibus, etc.

— 2, 21 De inoffic. dotibus.

— 3, 5 De sponsalibus et ante nuptias donation.

— 3, 6 Si . . . sponsalia.

— 3, 7 De nuptiis.

— 3, 8 De secundis nuptiis.

— 3, 9 Si secundo nubserit mulier, etc.

— 3, 10 Si nuptiae ex rescripto petantur.

— 3, 11 Si . . . potestate nuptias.

— 3, 12 De incest's nuptiis.

— 3, 13 De dotibus.

— 3, 14 De nuptiis gentilium.

— 3, 15 De fidejussoribus dotium.

— 8, 16 De infirmandis poenis caelibatus et orbitat.

COLL. MOSAIC. ET ROM. 6 De incestis nuptiis.

NOV. LEO AND SERVEUS, 1.

— MARCIAN. 4 De matrimoniis senatorum.

— MARJORIAN. 7 De curialibus.

— VALENTINIAN. 14 De fructibus inter vir. et ux., etc.

VATICAN FRAG. 94-122 De re uxoria et dotibus.

— 248-59 Quando donator, etc.

(b) **Justinian:**

(§988)

INST. 1, 9 De patria potestate, 1.

— 1, 10 De nuptiis.

— 1, 15 De . . . agnatorum tutela, 1.

— 2, 7 De donation., 3.

— 2, 8 Quibus alienare, etc. as far as § 1.

— 3, 2 De . . . agnatorum successione, §§ 1-2.

— 3, 5 De successione cognat., 4.

— 3, 6 De gradibus cognationis.

DIG. 16, 1 Ad. SC. Velleianum.

— 23, 1 De sponsalibus.

— 23, 2 De ritu nuptiarum.

— 23, 3 De jure dotium.

— 23, 4 De pactis dotalibus.

— 23, 5 De fundo dotali.

— 24, 1 De donation. inter vir. et ux.

— 24, 3 Soluta matrimonio dos . . . petatur.

— 25, 1 De impensis in res dotal., etc.

— 25, 2 De actione rerum amotarum.

— 25, 3 De agnoscendis et alendis liberis, etc.

— 25, 4 De inspiciendo ventre custodiend. partu.

— 25, 5 Si ventris nomine muliere, etc.

— 25, 6 Si mulier ventris, etc.

- (§988) — 33, 4 De dote praelegata.
 — 37, 7 De dotis collatione.
 — 38, 11 Unde vir et uxor.
 — 41, 9 Pro dote.
 — 50, 16 De verb. signif.
 101, 1.
 CODE, 2, 33 (34) Si adversus
 dotem.
 — 3, 30 De inoff. dotibus.
 — 4, 12 Ne uxor pro marito,
 etc.
 — 5, 1 De sponsalibus.
 — 5, 2 Si . . . sponsalia,
 etc.
 — 5, 3 De donation. ante
 . . . vel propter nuptias et
 sponsaliciis.
 — 5, 4 De nuptiis.
 — 5, 5 De incestis et inutil.
 nuptiis.
 — 5, 6 De interdicto matri-
 monio inter pupil. et tutor.
 seu curator. liberosque eor-
 um.
 — 5, 7 Si . . . potestate
 . . . nuptias.
 — 5, 8 Si nuptiae ex re-
 scripto petantur.
 — 5, 9 De secundis nuptiis.
 — 5, 10 Si secundo nupserit
 mulier, etc.
 — 5, 11 De dotis promissio-
 ne, etc.
 — 5, 12 De jure dotium.
 — 5, 13 De rei uxoriae
 actione, etc.
 — 5, 14 De . . . dote . . .
 donation. ante nuptias et
 paraphernis.
 — 5, 15 De dota cauta et
 non numerata, etc.
 — 5, 16 De donation. inter
 vir. et ux.
 — 5, 18 Solutio matrimonio
 dos . . . petatur.
 — 5, 20 Ne fidejussores
 . . . dotium, etc.
 — 5, 21 Rerum amotarum.
 — 5, 22 Ne pro dote . . .
 bona mariti, etc.
 — 5, 23 De fundo dotali.
 — 5, 26 De concubinis.
 — 6, 40 De . . . viduitate
 et de lege Julia . . . tol-
 lendo.
 — 6, 61 De bonis quae
 liberis . . . ex matrimonio,
 etc.
 — 8, 57 (58) De infirmandis
 poenis caelibat. et orbitat,
 etc.
 — 9, 11 De mulieribus quae
 servis . . . se junxerunt.
 Nov. 2 De non eligendo se-
 cundo nubentes mulieres,
 etc.
 — 12 De incestis et nefariis
 nuptiis.
 — 19 De filiis ante dotalia
 instrument. natis.
 — 22 De nuptiis.
 — 39 De . . . ea quae parit
 undecimo mense post viri
 mortem.
 — 61 Ut . . . antenuptial.
 donation., etc.
 — 68 Ut . . . lucra nup-
 tialia ex orbitat., etc.

- 74 Quibus . . . naturales filii efficiuntur legitimi, etc.
- 78 Ut liberti . . . restituantur natalibus, etc.
- 84 De consanguineis et uterinis fratribus.
- 91 Ut exactione . . . dotis . . . viro . . . antenuptial. donation.
- 97 De aequalitate dotis et propter nuptias donation. et augmento dotis et propter nupt. donation., etc.
- 98 Neque . . . ex dote . . . neque . . . ex sponsalicia, etc.
- 100 De tempore . . . super dotem.
- 109 De privilegiis dotis, etc.
- 119 Ut sponsalicia, etc.
- 139 Remissio poenae illicit. nuptiarum.
- 143 De raptis mulieribus et quae raptoribus nubunt.
- 150 (same title as Nov. 143).
- 154 De iis . . . qui illicit. nuptias, etc.
- (c) **Post-Justinian:**
- THEOPHILUS, 1, 9 De patria potestate, 1.
- 1, 10 De nuptiis.
- 1, 15 De legit. agnat.
- 2, 7 De donation., 3.
- 2, 8 Quibus alienare, etc., (§988) as far as § 1.
- 3, 2 De . . . agnat. successione.
- 3, 5 De successione cognat., 4.
- 3, 6 De gradibus cognationis.
- ECLOGA, 1 De . . . sponsalibus.
- 2 De matrimonio licito et prohibito primo et secundo, etc.
- 3 De dote cauta et non numerata et de jure dotis.
- PROCHIRON, 1 De consensu sponsalium.
- 2 De arrhis sponsalit.
- 3 De donation. sponsalit.
- 4 De definition et ritu nuptiarum.
- 5 De rigore matrimonii.
- 6 De donation. ante nuptias.
- 7 De prohibitis nuptiis.
- 8 De jure dotis.
- 9 De vindicatione dotis, etc.
- 10 De donation. inter vir. et ux.
- EPANAGOGA, 14 De sponsalibus.
- 15 De arrhis et donation. sponsal.
- 16 De nuptiis, et ritu earum.
- 17 De nuptiis prohibitis.
- 18 De dote.

- (§988) — 19 De donation. ante nuptias.
 — 20 De donation. inter vir. et ux.
 BAS. 9, 9 De privilegio . . . dotis.
 — 10, 12 Si adv. donationes.
 — 10, 16 Si adv. dotem.
 — 24, 4 Ne uxor pro marito, etc.
 — 28, 1 De sponsalibus.
 — 28, 2 De arrhis sponsal.
 — 28, 3 De muneribus sponsal.
 — 28, 4 De nuptiis, etc.
 — 28, 5 De nuptiis prohibitis.
 — 28, 6 De incestis nuptiis.
 — 28, 8 Solutio matrimonii . . . dos petatur.
 — 28, 9 Si dos reddita, etc.
 — 28, 10 De impensa in re dotali facta.
 — 28, 11 De actione rerum amotarum.
 — 28, 12 De lucris nuptialibus.
 — 28, 13 Ut . . . dos petatur, etc.
 — 28, 14 De viris et mulieribus ad secundas nuptias transeuntibus.
 — 28, 15 De . . . dotalium, et de ea quae undecimo mense post mortem mariti peperit.
 — 29, 1 De jure dotis et donation. ante nuptias, etc.
 — 29, 2 De augmento dotis et donation. ante nuptias, etc.
 — 29, 3 De tempore non numeratae dotis.
 — 29, 4 Ut donatio propter nuptias sit special. contract.
 — 29, 5 De pactis dotis.
 — 29, 6 De alienation. fundi dotal.
 — 29, 7 De rebus . . . donation. ante nuptias . . . et . . . de dote, etc.
 — 30, 1 De donation. inter vir. et ux.
 — 32, 1 De . . . concubinis et natural. liberis.
 — 37, 12 Ut . . . matres sine prohibitione tutelam liberorum gerant, etc.
 — 44, 7 De dote praelegata.
 — 45, 3 De gradibus cognatorum et affinium, etc.
 — 45, 5 Actio, per quam vir vel uxor . . . succedunt.
 — 45, 6 De Armeniis, ut . . . Romanorum leges sequantur.
 HEXABIBLOS, 1, 12 De im-
 puberibus, etc., 1.
 — 1, 13, De mulieribus.
 — 2, 2 De non numerata pecunia.
 — 4, 1 De consensu sponsalium.
 — 4, 2 De arrhis sponsal.
 — 4, 3 De donation. sponsal.

- 4, 4 De definitione et ritu nuptiarum.
- 4, 5 De civile matrimonii rigore.
- 4, 6 De ante nuptias donatione.
- 4, 7(6) De nuptiis prohibitis.
- 4, 8 De nuptiis . . . et gradibus cognationis.
- 4, 9 (7) De iis, qui ad secundas nuptias transeunt.
- 4, 10 (8) De jure dotis.
- 4, 11 (9) De vindicatione dotis, etc.
- 4, 12 De paraphernis.
- 4, 13 (10) De hypobolo.
- 4, 14 (11) De donation, inter vir. et ux.
- 6, 4 De his qui suo se sanguine miscent.

II. Modern references:—

(a) In general:

- AMOS, Roman law, pp. 276–90.
- ARNDTS, Lehrbuch, §§ 393–438.
- AYER, Legitimate marriage in Roman and Canon Law, 16 Harv. Law Rev., pp. 22–42.
- BALDASSARI, La capacità patrimoniale della donna maritata, etc. (1910).
- BÖCKING, Röm. Privatrecht, §§ 14–28, 165–82.
- BRISAUD (Howell, transl.), History of French private law, pp. 121–5, 159, 710, 720, 755, 802, Boston, 1912.

BRUCE, Marriage and divorce (§988) in Roman and in English law (Studies in history, etc., pp. 782–859).

CAUVRIÈRE, Le lien conjugal et le divorce — législation du Bas-Empire, 36 Revue générale du droit, pp. 239–50, 394–404; 37 Rev. gén., pp. 124, 304, 420.¹

COLQUHOUN, Roman law, §§ 531–651.²

COUCH, Woman in early Roman law, 8 Harv. Law Rev., p. 39.

CUQ, Institutions jurid. des romains, vol. i, pp. 204–31; vol. ii, pp. 85–109.

DEMANGEAT, Droit romain, pp. 231–6.

DEURER, Geschichte und Inst., §§ 199–208.

ESMEIN, Le testament du mari et la donatio ante nuptias (Mélanges, pp. 36–69, Paris, 1886).

— La manus, la paternité et le divorce dans l'ancien droit romain (Mélanges, pp. 1–35).

— Le mariage en droit canonique, 2 vols., Paris.

EVERSLEY, Marriage-tie in Roman and English law, 4 Law Mag. and Rev., p. 161.

FERRERO, Women of the Caesars, pp. 3–45, New York, 1911.

¹ COHEN v. SELLAR, Law Reports (1926), 1 King's Bench, p. 545 (McCardie, J., quotes verbatim on betrothal from SHERMAN, Roman Law in Modern World, vol. ii, § 459).

² CORBETT, The augustan divorce, 45 Law Quart. Rev., p. 178 (1929).

- (§988) FOWLER, Social life at Rome in the age of Cicero, pp. 135-67, Nes York, 1909.
- GIDE, Étude sur la condition privé de la femme, 1885.
- GIRARD, Manuel de droit romain⁵, pp. 145-70, 950-67.
- GLASSON, Le mariage civil et le divorce, Paris, 1880.
- GRADENWITZ, Zur Natur der "Dos" (Mélanges Gérardin, pp. 283-98, Paris, 1907).
- GREENIDGE, Development of Roman marriage, 21 Law Quart. Rev., p. 426.
- HADLEY, Roman law, pp. 138-48.
- HAPPOLD, Betrothals and marriages in Germany, 33 Canadian Law Times, p. 907.
- HOWE, Civil Law², p. 312.
- HUNTER, Roman law⁴, pp. 113, 115, 224-6; 308-9, 678-96, 830, 835-6, 911-12.
- KUEBLER, Ueber eine Stelle aus der Rede des Cicero für den Caecina (Mélanges P. F. Girard, vol. ii, pp. 43-61, Paris, 1912).
- LEAGE, Roman law, pp. 85-97.
- LEFEBVRE, Droit matrimonial français au pays de droit écrit et de Normandie, Paris, 1912.
- LOFINGIER (Spanish and American law of breach of promise to marry, 43 Am. Law Rev., pp. 759-69).
- LOEB, Marriage and divorce in France, 18 Virginia Law Reg., pp. 801-4.
- MACKELDEY (Dropsie, transl.), Roman law¹⁴, §§ 141-8, 543-83, 599.
- MACKENZIE, Roman law⁷, pp. 94-118.
- MAINE, Ancient law, ch. 5 (marriage).
- MAREZOLL, Lehrbuch, §§ 158-81.
- MARRIAGE in Japan, 135 Law Times, p. 89.
- MARRIAGE and divorce in France, 33 Canadian Law Times, p. 446.
- MAY, Éléments de droit romain, pp. 96-114.
- MEARS, Gaius and Justinian, ch. 2 and 3, London, 1882.
- MONNIER, Du casus non existentium liberorum dans les Nouvelles de Justinien (Mélanges Gérardin, pp. 437-65).
- MOREY, Roman law, pp. 243-51.
- MORIAUD, Du consentement du père au mariage en droit classique (Mélanges P. F. Girard, vol. ii, pp. 291-308, Paris, 1912).
- MOYLE, Inst. of Justinian, vol. i, 5th ed., pp. 122, 133, 135, 154, 235.

- PELLISON, Roman life in Pliny's time, pp. 37-57, New York, 1897.
- PENICAUD, Étude sur la condition légale des femmes en droit (1868).
- PETIT, Droit romain⁷, §§ 80, 85-91, 431-6.
- PHILLIMORE, Marriage in Canon Law, 8 Law Quart. Rev., p. 245.
- PICHON, Hommes et choses de l'ancienne Rome, Paris, 1912.
- PINDRAY, Quelques précisions sur la recherche de la paternité naturelle dans l'ancien droit français, 37 Revue gén. du droit, pp. 13-27.
- POSTE, Gaius⁴, pp. 44-69, 168, 273, 282, 338, 533.
- ROBY, Roman private law, vol. i, pp. 58, 127, 137, 159, 379.
- ROGERS, Marriage in old Rome, 18 Green Bag, p. 402.
- SAVIGNY, System, vol. i, §§ 54-5; vol. iv, §§ 162-9; vol. viii, §§ 379, 396.
- SCHUSTER, German civil law, §§ 407-19, 424.
- SMITH, Dict. of antiquities, "cognati," "donatio," "dos," etc.
- Dict. of Christian antiq., "marriage."¹
- SOHM (Ledlie³), Roman law, pp. 449-78.
- STOCQUART (Bierkan, transl.), Marriage in Roman law, (§988) 16 Yale Law Journal (March, 1907).
- Aperçu jurid. de l'évolution du mariage, vol. i (France), Paris, 1905; vol. ii (Spain), Paris, 1907.
- Spanish law of marriage 25 Am. Law Rev., p. 82.
- SWINBURNE, Treatise on sponsals (1686).
- TEISSIER, Des obligations alimentaires dans la famille à Rome et en France (1880).
- THIBAUT, Lehrbuch, §§ 154-70.
- TUCKER, Life in the Roman world of Nero and St. Paul, pp. 289-313, New York, 1910.
- VERING, Geschichte und Pandekten, §§ 220-38.
- WALTON, Roman law², pp. 78, 85, 163-77, 181, 188.
- ZENO, Gli assegni maritali, nel diritto siculo, Catania, 1911.
- ZIMMERN, Geschichte d. röm. Rechts, §§ 139-93, 219-31.

(b) Modern Codes:

References are to the Civil Code, unless otherwise stated.

ARGENTINA, 159-220, 1251-1356.

AUSTRIA, 44-136, 1217-66.

CHILE, 98-151, 1715-92, Law of Jan. 10, 1884.

¹ SMITHERS, Matrimonial rights under modern Spanish and American law, 70 Univ. of Penn. Law Rev., p. 259.

- FRANCE, 144-228, 1387-1581.
 GERMANY, 1297-1563.
 ITALY, 48-147, 1378-1446.
 JAPAN, 765-807.
 LOUISIANA, 86-137, 1734-55,
 2325-2437.
 MEXICO, 155-289, 1965-2218.
 PHILIPPINES (see WILLARD,
 Notes to Spanish Civil Code,
 Manila, 1904, pp. 11-20),
 1315-16, 1318-21, 1323,
 1326-52, 1354-1444. (See
 on these articles, WILLARD,
 Id. pp. 75-84.)
 PORTO RICO, 129-63, 1282-
 1347.
 QUEBEC, 115-82, 1257-1471.
 RUSSIA, 1-131, 1001-9.
 SPAIN, 42-103, 1315-1444.
 SWITZERLAND, 20-21, 90-136,
 159-251.
- III. See also infra § 989;
 supra vol. ii, §§ 459-83.

§ 989 Divorce (*repudium and divortium*): references.

I. Texts of Roman law: —

For English translations,
 see supra §§ 945, 946, 948,
 951, 952, 955.

(a) Ante-Justinian:

PAULUS, Sent. 2, 24 De
 liberis agnoscendis, § 5.

ULPIAN, Reg. 14 De poena
 legis Juliae.

COD. HERMOGENIAN. De re-
 pudiis.

COD. THEOD. 3, 16 De repu-
 diis.

NOV. THEOD. 12 De repudiis.

(b) Justinian:

DIG. 24, 2 De divortiis et
 repudiis.

— 50, 16 De verb. signif.,
 101, 1.

CODE, 5, 17 De repudiis,
 etc.

— 5, 18 Solutio matri-
 monium, etc.

— 5, 21 Rerum amotarum.

— 5, 24 Divortio facto,
 apud quem liberi morari vel
 educari debent.

NOV. 98 . . . Et ut ex re-
 pudio, etc.

— 117 Ut liceat matri, etc.
 ch. 7-15.

— 140 Ut possit ex con-
 sensu dissolvi matrimonii.

(c) Post-Justinian:

ECLOGA, 2 De matrimonio
 . . . ejus solutione.

PROCHIRON, De solutione ma-
 trimonii, etc.

EPANAGOGA, De solutione
 matrimonii.

BAS. 28, 7 De solutione ma-
 trimonii.

HEXABIBLOS, 4, 15 (12) De
 solutione matrimonii, etc.

II. Modern references: —

(a) In general:

AMOS, Roman law, pp. 285-6.

BRISSAUD (Howell), Hist of French private law, pp. 141-3, 148, Boston, 1912.

CAUVIÈRE (see supra § 988).

COLQUHOUN, Roman law, §§ 643-58.

COXE, Divorce in France, Am. lawyer (Feb. 1904).

DIVORCE in France, 134 Law Times, pp. 211-12.

GIRARD, Manuel de droit romain⁵, pp. 162-5.

HIRSCHFELD, Law of divorce in England and Germany, 13 Law Quart. Rev., p. 395.

HUNTER, Roman law⁴, pp. 689-94.

MACKELDEY (Dropsie), Roman law¹⁴, §§ 577, 579, 583.

MACKENZIE, Roman law⁷, pp. 119-26.

MEARS, Gaius and Justinian, ch. 4, London, 1882.

MOYLE, Inst. of Justinian, vol. 1, 5th ed., pp. 130, 131.

PETIT, Droit romain⁷, § 90.

POSTE, Gaius⁴, pp. 86, 87, 533.

ROBY, Roman private law, vol. i, 134-5.

ROGERS, Divorce in Rome, (§989) 29 Canadian Law Times, p. 997.

RUSSIAN procedure in divorce, 6 Green Bag, p. 574.

SAVIGNY, System, vol. i, §§ 54-5.

SCHUSTER, German civil law, §§ 420-23.

SOHM (Ledlie³), Roman law, pp. 474-7.

WALTON, Roman law², p. 187.

(b) Modern Codes:

References are to the Civil Code unless otherwise stated.

ARGENTINA, 241-9.

AUSTRIA, 103-11, 132-6.

CHILE, 152-78.

FRANCE, 229-311.

GERMANY, 1564-87.

ITALY, 148-58.

JAPAN, 808-19.

LOUISIANA, 110-18, 136-61.

MEXICO, 226-89.

PHILIPPINES (see WIL-LARD, Notes to Spanish Civil Code, Manila, 1904, p. 11).

PORTO RICO, 163-78.

QUEBEC, 148-217.

RUSSIA, 37-60.

SPAIN, 101-7.

SWITZERLAND, 120-58.

III. See also supra § 988; vol. ii, §§ 484-91.

§ 990 Legitimation: references.

I. Texts of Roman law:—

For English translations, see
supra §§ 945, 946, 948, 951,
952, 955.

(a) Ante-Justinian:

XII TABLES, iv, 4.

COD. THEOD. 4, 6 De naturalibus filiis, etc.

NOV. THEOD. 22 De bonis decurionum et de natural. filiis eorum.

(b) Justinian:

INST. 1, 10 De nuptiis, 13.

— 3, 1 De hereditatibus, etc., 2a.

DIG. 25, 3 De agnoscendis et alendis liberis, etc.

CODE, 5, 27 De natural. liberis, etc.

— 10, 32 (31) De decurionibus, etc.

— 10, 44 (43) De his qui sponte munera susceperunt.

NOV. 19 De filiis ante dotalia instrumenta natis.

— 38 De natural. in curiam deputandis, etc.

— 39 De ea quae parit undecimo mense post viri mortem.

— 74 Quibus modis naturales filii efficiuntur legitimi, etc.

— 78 Ut . . . in libertis mulieribus . . . etiam nup-

tias legitimas . . . et filios suos, etc.

— 89 Quibus modis naturales efficiuntur sui et de . . . ex testamento seu ab intestato successione.

(c) Post-Justinian:

THEOPHILUS, 1, 10 De nuptiis, 13.

— 3, 1 De hereditatibus, etc., 2a.

BAS. 32, 1 De . . . natural. liberis . . . et concubinis, etc.

— 32, 2 De natural. liberis et . . . qui legitimi facti sunt.

— 44, 7 De dote praelegata.

II. Modern references:—**(a) In general:**

AMOS, Roman law, p. 274.

BRISSAUD (Howell), Hist. of French private law, pp. 213, 215.

BRYCE, Studies, etc. p. 809.

COLQUHOUN, Roman law, §§ 659-82.

CUMIN, Roman law³, p. 55.

CUQ, Inst. jurid. des romains, vol. ii, p. 115.

GIRARD, Manuel de droit romain⁵, pp. 186-8.

HOOPER, Law of illegitimacy, London, 1912.

- HUNTER**, Roman law⁴, pp. 201-3.
- ILLEGITIMATE children in France, 134 *Law Times*, p. 463.
- LAVOLLÉE, *Code-manuel de la recherche de la paternité*, Paris, 1913.
- LEAGE, Roman law, pp. 69-71.
- LEGITIMATION by subs. marriage: effect on . . . curtesy, 24 *Harvard Law Rev.*, p. 146.
- (Comment on Estate *v.* Jones, 2 *Cal. Law Rev.*, p. 79).
- MACCAS, *Condition jurid. en Grèce des enfants naturels, etc.*, 39 *Journal du droit internat. (Clunet)*, pp. 731-49.
- (Natural children and particularly the search for paternity in modern Greek law), Athens, 1911 (in Greek).
- MACKELDEY (Dropsie), Roman law¹⁴, § 599.
- MACKENZIE, Roman law⁷, p. 127.
- MAY, *Droit rom.*, pp. 119-21.
- MOYLE, *Inst. of Justinian*, vol. i, 5th ed., pp. 136, 137.
- PETIT, *Droit romain*⁷, §§ 94-5.
- SCHUSTER, *German Civil Law*, § 427.
- (b) **Modern Codes:**
- References are to the Civil Code, unless otherwise stated.
- ARGENTINE, 345-78.
- AUSTRIA, 155-71.
- CHILE, 202-18.
- FRANCE, 331-42.
- GERMANY, 1699-1740.
- ITALY, 179-201.
- JAPAN, 827-36.
- LOUISIANA, 198-245.
- MEXICO, 325-61.
- PHILIPPINES, 119-24, 128-41.
- PORTO RICO, 187-97.
- QUEBEC, 237-41.
- RUSSIA, 132-44.
- SPAIN, 119-41.
- SWITZERLAND, 258-263, 302-27.
- III. See also *supra* vol. i, § 150; vol. ii, §§ 483, 492-5.

Adoption (adrogatio and adoptio): references.

§ 991

I. Texts of Roman law: —

For English translations, see *supra* §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

GAIUS, i, 97-123, 132, 134-41; iii, 82-7.

(§991) **ULPIAN**, Reg. 8 De adoptionibus.

(b) **Justinian**:

INST. 1, 11 De adoptionibus.

— 1, 12 Quibus modis jus potestatis solvitur, 6, 8–10.

— 3, 1 De hereditatibus, etc., 14.

— 3, 10 De adquisitione per adrogation.

DIG. 1, 7 De adoption., etc.

CODE, 8, 47 (48) De adoptionibus.

(c) **Post-Justinian**:

THEOPHILUS, 1, 11 De adoptionibus.

— 1, 12 (see *supra* title of **INST.** 1, 12), 6, 8–10.

— 3, 1 De hereditatibus, etc., 14.

— 3, 10 De adquisitione per adrogation.

BAS. 33, 1 De adoptionibus.

HEXABIBLOS, 2, 8 De adoptione.

II. Modern references:—

(a) **In general**:

AMOS, Roman law, p. 275.

BRISSAUD (Howell), Hist. of French private law, p. 217, Boston, 1912.

BRYCE, Studies in hist., etc., p. 866.

COLQUHOUN, Roman law, §§ 625, 684–707.

CUMMIN, Civil Law², p. 56.

CUQ, Inst. jurid. des romains, vol. i, pp. 234, 240; vol. ii, pp. 115–19.

DESSERTAUX, Étude sur les effets de l'adrogation, Paris, 1892.

DIMITRACOPOULO, Communication sur l'adrogation des enfants naturels, 20 Journal de la jurispr. grecque et français, p. 227 (in Greek, law of modern Greece).

EUCLIDES, De l'adrogation des enfants naturels, 6 Journal de la jurispr. grecque et français, p. 412 (in Greek, mod. Greek law).

GIRARD, Manuel de droit romain⁵, pp. 171–83.

HUNTER, Roman law⁴, pp. 203–21, 778–9, 851–3.

MACKELDEY (Dropsie), Roman law¹⁴, §§ 592–8.

MACKENZIE, Roman law⁷, pp. 132–6.

MAY, Droit rom., pp. 114–19.

MOYLE, Inst. of Justinian, vol. i, 5th ed., pp. 137–9, 345, 385–6.

PETIT, Droit rom.⁷, §§ 92–3.

POSTE, Gaius⁴, pp. 62–6, 82, 175, 312, 473, 480.

ROBY, Roman private law, vol. i, pp. 58–62.

SCHUSTER, German civil law, § 428.

SOHM (Ledlie³), Roman law, pp. 479–82, 487, 507, 509, 531, 536.

- THOMPSON, Right of the adopted child in intestate succession, 2 Am. Bar Ass'n Journal, p. 135.
 WALTON, Roman law, p. 72.
- (c) **Modern Codes:**
 References are to the Civil Code, unless otherwise stated.
 AUSTRIA, 179-86.
 CALIFORNIA, 221-30.
 FRANCE, 343-63.
- GERMANY, 1741-72.
 ITALY, 202-19.
 JAPAN, 837-76.
 LOUISIANA, 214 et seq.
 PHILIPPINES, 765-72 (Civil Procedure).
 PORTO RICO, 200-211.
 RUSSIA, 145-63.
 SPAIN, 173-9.
 SWITZERLAND, 264-9.
- III. See also supra vol. ii, §§ 496-504.

The paternal power (*patria potestas*): references.

§ 992

I. Texts of Roman law: —

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

XII TABLES, iv, 1-3.

GAIUS, i, 48-51, 55, 65-97, 124-41, 162.

PAUL. Sent. 1, 4 De negotiis gestis.

— 2, 9 De in rem verso.

— 2, 10 De SC. Macedonianum.

— 2, 25 Quemadmodum filii sui juris efficiuntur.

— 5, 1 De liberali causa.

ULPIAN, Reg. 4 De his qui sui juris sunt.

— 5 De his qui in potestate sunt.

— 10 Qui in potestate mancipiove, etc.

COD. GREGORIAN. 3 Quod . . . qui alieno potestate, etc.

— 13, De patria potestate.
 COD. HERMOGENIAN. De eorum contractibus, qui alieno jure, etc.

COD. THEOD. 2, 31 Quod jussu.

— 2, 32 De peculio.

— 3, 3 De patribus qui filios distraxerunt.

— 5, 9 De expositis.

— 5, 10 De his qui sanguinolentes emptos, etc.

— 6, 36 De castrensi omnium palatinorum peculio.

— 8, 14 De ingratis liberis.

— 8, 17 De jure liberorum.

— 8, 18 De maternis bonis, etc.

— 8, 19 De bonis quae filiusfam. ex matrimonio adq.

- (§992) — 11, 27 De alimentis quae inopes parentes de publico petere debent.
 — 15, 8 De lenonibus.
 NOV. MARJORIAN. 7 De curialibus.
 NOV. THEOD. 14 De paternis sive maternis bonis.
 NOV. VALENTINIAN. 2 De postulando.
 — 33, De parentibus qui filios distraxerunt, etc.
- (b) **Justinian:**
 INST. 1, 8 De his qui sui vel alieni juris, etc., to § 1.
 INST. 1, 9 De patria potestate.
 — 1, 12 Quibus modis jus potestatis solvitur.
 — 1, 16 De capitis minutione, 3.
 DIG. 1, 6 De his qui sui vel alieni juris, etc., 3-11.
 — 1, 7 De adoption. et emancipation.; etc., 28, 31-2, 36.
 — 14, 5 Quod cum eo qui in alieno potestate.
 — 14, 6 De SC. Macedonianum.
 — 15, titles 1 and 2 (on the peculium).
 — 15, 3 De in rem verso.
 — 15, 4 Quod jussu.
 — 25, 3 De agnoscendis et alendis liberis, etc.
 — 25, 4 De inspiciendo ventre, etc.
 — 25, 5 Si ventris . . . mulier, etc.
 — 25, 6 Si mulier ventris, etc.
 — 37, 8 De conjungendis cum emancipato, etc.
 — 37, 12 Si a parente quis manumissus sit.
 — 37, 14 De jure patronatus.
 — 37, 15 De liberis exhibendis, etc.
 — 49, 17 De castrense peculio.
 CODE, 1, 3 De episcopis et clericis, etc.
 — 4, 13 Ne filius pro patre . . . conveniatur.
 — 4, 26 Quod . . . de peculio seu quod jussu aut de in rem verso.
 — 4, 27 Per quas personas nobis adq.
 — 4, 43 De patribus qui filios distraxerunt.
 — 5, 25 De alendis liberis, etc.
 — 6, 60 De bonis maternis, etc.
 — 6, 61 De bonis quae liberis in potestate constitutis vel aliter adq. . . ex matrimonio, etc.
 — 8, 8 De liberis exhibendis, etc.
 — 8, 46 (47) De patria potestate.
 — 8, 48 (49) De emancipation., etc.

- 8, 51 (52) De infantibus expositis et . . . qui sanguinolentos emptos, etc.
- 8, 58 (59) De jure liberorum.
- 9, 15 De emendatione propinquorum.
- 9, 17 De his qui parentes vel liberos occiderunt.
- 10, 32 (31) De decurionibus, etc.
- 10, 41 (40) De honoribus et muneribus non . . . inter patrem et filium, etc.
- 10, 62 (60) De filiis familias et . . . pater pro his teneatur.
- 10, 65 (63) De legationibus.
- 11, 41 (40) De spectaculis . . . et lenonibus.
- 12, 30 (31) De castrense omn. palatinorum peculio.
- 12, 36 (37) De castrensi peculio militum, etc.
- Nov. 2 . . . Mulieres . . . et de succession. earum filiis suis.
- 81 Constitutio quae dignitatibus et episcopatu liberat filium patria potestate.
- 153 De infantibus expositis.
- (c) **Post-Justinian :**
- THEOPHILUS, 1, 8 De his qui sui vel alieni juris sunt, to § 1.
- 1, 9 De patria potestate. (§ 902)
- 1, 12 Quibus modis jus patriae potestatis solvitur.
- 1, 16 De capitis diminutione, 3.
- ECLOGA, 16 De bonis . . . castrensibus militum, etc.
- PROCHIRON, 22 De testamento hominum alieni juris.
- PROCHIRON, 26 De emancipatione.
- EPANAGOGA, 31 De testamentum hominum alieni juris.
- BAS. 10, 5 De filiis familias minoribus.
- 18, 1 De actione . . . adv. eum qui aliquem tabernae suae administrand. praeposuit.
- 18, 2 De actione . . . adv. . . . patrem, etc.
- 18, 3 De actione . . . adv. patrem, etc.
- 18, 4 De SC. Macedoniano, etc.
- 18, 5 De actione de peculio . . . adv. patrem, etc.
- 18, 6 . . . De peculio, etc.
- 18, 7 De actione quae de in rem . . . vel patris verso, etc.
- 18, 8 De his quae jussu . . . patris . . . contrahit, etc.
- 19, 1 De . . . patribus qui filios distrahunt.

- (§ 992) — 24, 1 Ne . . . filius pro
patre, etc.
- 31, 1 De his qui sui vel
alieni juris sunt.
- 31, 2 De observantia
parentibus . . . et de libe-
ris exhibendis, etc.
- 31, 3 De emancipatione
liberorum et ingratis liberis,
etc.
- 31, 4 Quibus modis jus
potestatis solvatur.
- 31, 5 Constitutio, quae
per dignitates et episcopa-
tum filios patria potestate
liberat.
- 31, 6 De agnoscendis et
alendis liberis, etc.
- 33, 2 De infantibus ex-
positis . . . et . . . qui
. . . sanguinolentos eme-
runt, etc.
- 40, 6 Si . . . quis eman-
cipatus sit.
- 45, 4 De bonis maternis.
- 57, 2 De castrensibus
peculiis.
- 60, 59 De emendatione
. . . propinquorum.
- HEXABIBLOS, 1, 17 De potes-
tatis patriae dissolutione.
- 5, 2 De testamento
hominum alieni juris.
- ARNDTs, Lehrbuch, §§ 393-
438.
- BÖCKING, Röm. Privatrecht,
§§ 14-28, 165-82.
- BRISSAUD (Howell), Hist. of
French private law, p. 183,
Boston, 1912.
- BRYCE, Studies in hist., pp.
86, 628, 643, 666.
- COLQUHOUN, Roman law,
§§ 517-31, 683, 709, 719,
1284-5.
- CUMMIN, Civil Law², p. 57.
- CUQ, Inst. jurid. des romains,
vol. i, pp. 153-200; vol. ii,
pp. 113-49.
- DECLAREUIL, Paternité et
filiation (Mélanges P. F.
Girard, vol. i, pp. 315-52,
Paris, 1912).
- DEMANGEAT, Droit romain,
pp. 231-6.
- DEURER, Geschichte und
Inst. §§ 199-208.
- ESMEIN, La manus, la pater-
nité, etc., dans l'ancien
droit romain (Mélanges,
pp. 1-35, Paris, 1886).
- GIRARD, Manuel de droit
romain⁵, pp. 134-43, 188-
200.
- HADLEY, Roman law, pp.
119-26.
- HUBERICH, Paternal power in
Slavonic law, 14 Juridical
Review (Sept., 1902).
- Paternal power in Mo-
hammedan law, 12 Yale
Law Journal, p. 93.

II. Modern references: —

(a) In general:

AMOS, Roman law, pp. 258-
74.

- Paternal power in Japanese law, 12 *Yale Law Journal*, p. 26.
- Paternal power in Chinese law, 14 *Juridical Review* (Dec. 1902).
- HUNTER, Roman law⁴, pp. 188-23, 473-4, 605-6, 610-11, 774-9, 833-5.
- LEAGE, Roman law, pp. 69-84.
- LEHR, *De la puissance . . . paternelle d'après les principaux codes de l'Europe*, 9 *Rev. de droit internat.*, pp. 52, 171.
- MACKELDEY (Dropsie), Roman law¹⁴, §§ 484-614.
- MACKENZIE, Roman law⁷, pp. 137-48.
- MAREZOLL, *Lehrbuch*, §§ 158-81.
- MAY, *Droit romain*, pp. 86-94, 121-3.
- MOREY, Roman law, pp. 239-43.
- MOYLE, *Inst. of Justinian*, vol. i, 5th ed., pp. 124-7, 142-7.
- PETIT, *Droit romain*⁷, §§ 82-4, 96-7.
- POSTE, *Gaius*⁴, pp. 39 et seq.
- ROBY, Roman private law, vol. i, pp. 57, 62-4.
- SAVIGNY, *System*, vol. viii, §§ 380-96.
- SCHUSTER, German civil law, §§ 441-8.
- SMITH, *Dict. of antiq.*, "patria potestas."
- SOHM (Ledlie³), Roman law, (§ 992) pp. 479-86.
- THIBAUT, *Lehrbuch*, §§ 154-70.
- WALTON, Roman law², pp. 70, 100.
- ZIMMERN, *Geschichte d. röm. Rechts*, §§ 139-93, 219-31.
- (b) **Modern Codes:**
- References are to the Civil Code, unless otherwise stated.
- ARGENTINA, 298-344.
- AUSTRIA, 137-86.
- CHILE, 240-69.
- FRANCE, 371-87, 476-87.
- GERMANY, 1627-98.
- ITALY, 220-39, 310-22.
- JAPAN, 877-99.
- LOUISIANA, 178-97, 215-45, 365-88.
- MEXICO, 290-324, 362-402.
- PHILIPPINES (see WILLARD, *Notes to Spanish Civil Code*, pp. 20-23, 28-30, Manila, 1904).
- PORTO RICO, 180-99, 222-36.
- QUEBEC, 218-36, 242-5.
- RUSSIA, 164-95.
- SPAIN, 108-18, 154-72.
- SWITZERLAND, 252-7, 273-89.
- III. See also *infra* § 1000; *supra* vol. ii, §§ 434, 446, 505-14.

§ 993 Guardianship (*tutela* and *curatio*): references.**I. Texts of Roman law: —**

For English translations, see
supra §§ 945, 946, 948, 951,
952, 955.

(a) Ante-Justinian:

XII TABLES, v. 1-3, 6-7; viii,
20.

GAIUS, i, 132, 142-58, 164-
200; ii, 80-85.

PAUL. Sent. 1, 1a, 22-30.

— 1, 4 De negotiis gestis.

— 1, 9 De minoribus xxv
annorum; also 1, 9a.

— 2, 27 De excusationibus
tutorum.

— 2, 28 De potioribus nomi-
nandis.

— 2, 29 Qui potiores nomi-
nare, etc.

— 2, 30 Ad oration. divi
Severi.

— 2, 30a; also 3, 10.

— 5, 1 De liberali causa,
8; also 5, 5b.

ULPIAN, Reg. 11 De tutelis.

— 12 De curatoribus.

— 29 De bonis libertorum.

COD. GREGORIAN. 2 Si adv.
donation., etc.

— 6, 18 Abitrium tutelae.

COD. THEOD. 2, 4 De de-
nuntiation., etc.

— De integri restitutione.

— 3, 17 De tutor. et cura-
tor. creandis.

— 3, 18 Qui petant.

COD. THEOD. 3, 30 De ad-
ministratione et periculo
tutor. et curator.

— 3, 31 De excusatione
tutorum.

— 3, 32 De praediis mino-
rum sine decreto non alien-
andis.

— 4, 3 De Carboniano edic-
to.

— 9, 8 Se quis eam cujus
tutor . . . corruperit.

— 12, 17 De . . . numero
liberorum vel paupertate
excusationem, etc.

NOV. THEOD. 11 De tutori-
bus.

VATICAN FRAG. De excusa-
tione.

(b) Justinian:

INST. 1, 12 Quibus modis, etc.,
6.

— 1, 13 De tutelis.

— 1, 14 Quibus . . . tu-
tores testamento, etc.

— 1, 15 De legitima adgnat.
tutela.

— 1, 16 De cap. minu-
tione, 7.

— 1, 17 De legitima pat-
tronum tutela.

— 1, 18 De legitima paren-
tum tutela.

— 1, 19 De fiduciaria tu-
tela.

- 1, 20 De Atiliciano tutore, vel eo . . . ex lege Julia et Tatia.
- 1, 21 De auctoritate tutorum.
- 1, 22 Quibus modis tutela finitur.
- 1, 23 De curatoribus.
- 1, 24 De satisfactione tutor. vel curator.
- 1, 25 De excusationibus tutor. vel curator.
- 1, 26 De suspectis tutor. vel curator.
- 2, 8 Quibus modis alienare, etc. 2.
- DIG. 4, 1 De integrum restitution.
- 4, 4 De minoribus xxv annis.
- 25, 4 De inspiciendo ventre custodiendoque partu.
- 25, 6 Si mulier ventris.
- 26, 1 De tutelis.
- 26, 2 De testamentaria tutela.
- 26, 3 De confirm. tutor. vel curator.
- 26, 4 De legitimis tutor.
- 26, 5 De tutor. et curator. datis . . . et in quib. causis specialiter dari, etc.
- 26, 6 Qui petant tutores vel curatores, etc.
- 26, 7 De administratione et periculo tutor. et curator., etc.
- 26, 8 De auctoritate et (1993) consensu tutor. et curator.
- 26, 9 Quando ex facto tutor. vel curator. agere, etc.
- 26, 10 De suspectis tutor. et curator.
- 27, 1 De excusationibus.
- 27, 2 Ubi pupillus educari vel morari debeat, etc.
- 27, 3 De tutelae et rationibus distrahendis et utili curationis causa actione.
- 27, 4 De contraria tutelae et utili actione.
- 27, 5 De eo qui pro tutor. prove curator., etc.
- 27, 6 Quod falso tutor, etc.
- 27, 7 De fidejussor. et nominator. et heredibus tutor. et curator.
- 27, 8 De magistrat. convenientibus.
- 27, 9 De rebus eorum, qui sub tutela vel cura sunt, sine decreto non alienandis, etc.
- 27, 10 De curator. furioso et aliis extra minores dandis.
- 37, 8 De ventre . . . et curatore ejus.
- 42, 7 De curatore bonis dando.
- 46, 6 Rem pupilli vel adulescentis salvam fore.

- (§993) DIG. 47, 23 De popularibus actionibus.
 — 49, 10 Si tutor vel curator . . . appellaverit.
 — 50, 5 De vacatione et excusatione munerum.
 — 50, 6 De jure immunitatis.
 CODE, 2, 21 (22) De . . . integrum restitutione minor. xxv annis.
 — 2, 22 (23) De filiofam. minore.
 — 2, 23 (24) De fidejussor. minorum.
 — 2, 24 (25) Si tutor vel curator intervenerit.
 — 2, 26 (27) Si adv. rem judicatam.
 — 2, 27 (28) Si adv. venditionem.
 — 2, 28 (29) Si adv. venditionem pignoris.
 — 2, 29 (30) Si adv. donationem.
 — 2, 30 (31) Si adv. libertatem.
 — 2, 31 (32) Si adv. transactionem, etc.
 — 2, 32 (33) Si adv. solutionem.
 — 2, 33 (34) Si adv. dotem.
 — 2, 34 (35) Si adv. dictum.
 — 2, 35 (36) Si adv. usucapionem.
 — 2, 36 (37) Si adv. fiscum.
 — 2, 37 (38) Si adv. creditorem.
 — 2, 38 (39) Si ut se hereditate abstineat.
 — 2, 39 (40) Si ut omissam hereditatem, etc.
 — 2, 40 (41) In . . . integrum restitutio, etc.
 — 2, 41 (42) Qui et adv. . . . integrum restitutio, etc.
 — 2, 42 (43) Si minor se majorem dixerit, etc.
 — 2, 43 (44) Si saepius . . . integrum restitutio, etc.
 — 2, 45 (46) Si major factus ratum habuerit.
 — 2, 46 (47) Ubi et apud quem cognitio restitutionis, etc.
 — 2, 47 (48) De reputation. . . . integrum restitutionis.
 — 2, 48 (49) Etiam per procurator. . . . integrum restitutionis, etc.
 — 2, 49 (50) In integrum restitutione, etc.
 — 2, 52 (53) De temporibus in integrum restitutionis, etc.
 — 3, 6 Qui legit. personam in judiciis, etc.
 — 3, 21 Ubi agi oportet ratiociniis, etc.
 — 5, 26 De interdicto matrimonio inter pupil. et tutor. seu curator., etc.
 — 5, 28 De tutela testamentaria.
 — 5, 29 De confirm. tutore.

- 5, 30 De legitima tutela.
- 5, 31 Qui petant tutor.
vel curator.
- 5, 32 Ubi petant tutor.
vel curator.
- 5, 33 De tutor. et cura-
tor. . . . illustrium per-
sonarum.
- 5, 34 Qui dare tutor. vel
curator.
- 5, 35 Quando mulier
tutelae officio fungi potest.
- 5, 36 In quibus causis
tutorem habenti tutor vel
curator dari potest.
- 5, 37 De administra-
tione tutor. vel curator.,
etc.
- 5, 38 De periculo tutor.
et curator.
- 5, 39 Quando ex facto
tutor. vel curator. agere,
etc.
- 5, 40 Si ex pluribus
tutor. vel curator. unus
agere, etc.
- 5, 41 Ne tutor vel cura-
tor vectigal conducat.
- 5, 42 De tutor. vel cura-
tor. qui satis non dedit.
- 5, 43 De suspectis.
- 5, 44 De in litem dando
tutor. vel curator.
- 5, 45 De eo qui pro
tutore . . . gessit.
- 5, 46 Si mater indemni-
tatem, etc.
- 5, 47 Si contra matris
voluntatem tutor datus sit.
- 5, 48 Ut . . . post pu-
bertatem adsit tutor.
- 5, 49 Ubi pupil. edu-
cerentur.
- 5, 50 De alimentis pu-
pillo, etc.
- 5, 51 Arbitrium tutelae.
- 5, 52 De dividenda tu-
tela, etc.
- 5, 53 De in litem ju-
rando.
- 5, 54 De heredibus tu-
torum.
- 5, 55 Si tutor non ges-
serit.
- 5, 56 De usuris pupil-
laribus.
- 5, 58 De contrario ju-
dicio.
- 5, 59 De auctoritate,
etc.
- 5, 60 Quando curator.
vel tutor. esse desinant.
- 5, 61 De actore a tutore
seu curatore dando.
- 5, 62 De excusationibus,
etc.
- 5, 63 Si falsis adlegation.
excusatus sit.
- 5, 64 Si tutor rei pub-
licae causa aberit.
- 5, 65 De excusatione
veteranorum.
- 5, 66 Qui numero li-
berorum se excusant.
- 5, 67 (68) Qui aetate.
- 5, 68 (67) Qui morbo.
- 5, 69 Qui numero tute-
larum.

- (§993) CODE, 5, 70 De curator. furiosi vel prodigi.
- 5, 71 De praediis vel aliis rebus minorum sine decreto non alienandis vel obligandis.
- 5, 72 Quando decreto opus non est.
- 5, 73 Si quis ignorans rem minoris esse sine decreto comparavit.
- 5, 74 Si major factus sine decreto . . . alienation. ratam habuerit.
- 9, 10 Si quis eam cujus tutor . . . corruperit.
- 10, 43 (42) . . . Civilium munera, etc.
- 10, 44 (43) De his qui . . . munera, etc.
- 10, 48 (47) De excusationibus munerum.
- 10, 49 (48) De . . . muneribus . . . nemini liceat se excusare.
- 10, 50 (49) Qui aetate se excusant.
- 10, 51 (50) Qui morbo.
- 10, 52 (51) De his qui munero liberorum vel paupertate excusationem, etc.
- 10, 53 (52) De professoribus et medicis.
- 10, 54 (53) De athleticis.
- 10, 55 (54) De his qui non impletis stipendiis sacramento soluti sunt.
- 10, 56 (55) Quibus muneribus excusantur . . . post . . . militiam vel advocacy., etc.
- 10, 57 (56) De conductoribus vectigalium fisci.
- 10, 58 (56) De libertinis.
- 10, 59 (57) De infamibus.
- 10, 66 (64) De excusationibus artificum.
- 10, titles 67 (65)–73 (71), are minor titles on "mura".
- NOV. 72 Ut . . . res minorum . . . et ut curatores, etc.
- 94 Ut sine prohibitione matres debetrices et cred. tutelam gerant minorum, etc.
- 131 De ecclesiast. titulis.
- 155 Ut matres tutelae rationibus obnoxiae sint.
- (c) **Post-Justinian:**
- THEOPHILUS, i, 12, 6; i, 13–15; i, 16, 7; i, 17–26; ii, 82 (same titles as INST. supra).
- ECLOGA, 7 De pupillis, etc.
- PROCHIRON, 31 De restitutione.
- 36 De tutoribus.
- EPANAGOGA, 38 De tutoribus.
- BAS. 9. 6 Quibus ex causis, etc.
- 9, 7 De rebus auctoritate iudicum poss., etc.
- 10, 4 De restitutione minorum.
- 10, 5 De filiisfam. minor.

- 10, 7 Si tutor vel curator intervenierit.
- 10, 14 Si adv. transactionem . . . minor, etc.
- 10, 21 Si quis se hereditate absteineat.
- 10, 25 Si minor se major. dixerit, etc.
- 10, 34 De temporibus . . . in integrum restit. . . . minorum, etc.
- 17, 1 De negotia aliena gerentibus.
- 17, 2 De . . . sumtus, etc.
- 37, 1 De tutor. et curator.
- 37, 2 De tutor. testamentariis.
- 37, 3 De confirm. tutor. et curator.
- 37, 4 De legitimis tutor.
- 37, 5 De tutor. et curator. datis, etc.
- 37, 6 Qui petant curator. vel tutor., etc.
- 37, 7 De administratione tutor. et curator. et de periculo, etc.
- 37, 8 De auctoritate et consensu tutor. et curator.
- 37, 9 Ex . . . facto tutor. vel curator. . . . agere, etc.
- 37, 10 De suspicione tutor. et curator.
- 37, 11 De curator. et tutor. et cura minorum.
- 37, 12 Ut matres sine (§993) prohibitione liberorum tutelam gerant, etc.
- 38, 1 De excusatione . . . tutor. et curator.
- 38, 2 Ubi pupil. educari et morari debeat, etc.
- 38, 3 De actione . . . in tutor. et curator. datur, et de rationibus, etc.
- 38, 4 De contraria tutelae et utili actione.
- 38, 5 De actione . . . adv. tutor. et curator., etc.
- 38, 6 Si falsi tutoris auctoritate negotium gestum, etc.
- 38, 7 De . . . heredibus tutor. et curator. et fidejussor. eorum.
- 38, 8 Magistratus teneri ob inopiam tutor. a se datorum.
- 38, 9 De rebus . . . qui sub tutela vel cura . . . sine decreto non alienandis vel obligandis.
- 38, 10 De curator. qui dantur furiosis vel prodigis, vel aliis extra minores.
- 38, 11 Res pupilli salva esto.
- 38, 12 De curator. bonis dandis.
- 38, 13 Ne tutor vel curator vectigalia conducatur.
- 38, 14 De dividenda tutela, etc.

- (§993) BAS. 38, 15 De jurejurando in litem.
 — 38, 16 Si tutor non gesserit.
 — 38, 17 De usuris pupil.
 — 38, 18 De contrario iudicio.
 — 38, 19 Quando tutor. vel curator. esse desinant.
 — 40, 2 De bonorum poss. furiosi, muti, surdi, coeci.
 — 54, 5 De vacatione et excusatione munerum.
 — 54, 6 De jure immunitat.
 — 60, 57 Si quis eam cujus tutor . . . corruperit.
 HEXABIBLOS, 1, 12 De impuberibus et minoribus, aequè in integrum restit.
 — 2, 5 De muneribus, etc.
 — 5, 12 (11) De tutor., curator., etc.
- II. Modern references: —**
- (a) **In general:**
 AMOS, Roman law, pp. 290–304.
 BRISSAUD (Howell), Hist. of French private law, pp. 232–60, Boston, 1912.
 COLQUHOUN, Roman law, §§ 720–834, 1875–82.
 DE LA GRASSERIE, Étude critique sur la tutelle des mineurs en droit comparé, Paris, 1912 (modern law).
 DEBRAY, Contribution à l'étude de la loi Plaetoria relative à la protection du mineur de 25 ans (Mélanges P. F. Girard, vol. i, pp. 265–314, Paris, 1912).
 GIRARD, Manuel de droit romain⁵, pp. 200–235.
 HUNTER, Roman law⁴, pp. 126–30, 696–735.
 MACKELDEY (Dropsie), Roman law¹⁴, §§ 614–48.
 MACKENZIE, Roman law⁷, pp. 149–59.
 MOREY, Roman law, pp. 252–60.
 MOYLE, Inst. of Justinian, vol. i, 5th ed. pp. 147–80.
 PETIT, Droit romain⁵, §§ 102–32.
 POSTE, Gaius⁴, pp. 90–116.
 ROBY, Roman private law, vol. i, pp. 92, 102, 121.
 SAVIGNY, System, vol. iii, §§ 106–11; vol. vii, §§ 322–4; vol. viii, §§ 380, 396.
 SCHUSTER, German civil law, §§ 449–67.
 SOHM (Ledlie³), Roman law, pp. 488–500.
- (b) **Modern Codes:**
 References are to the Civil Code, unless otherwise stated.
 ARGENTINA, 411–528.
 AUSTRIA, 187–284.
 CHILE, 338–544.
 FRANCE, 389–515.
 GERMANY, 1773–1921.
 ITALY, 240–349.
 JAPAN, 900–953.

LOUISIANA, 246-426.

MEXICO, 403-597.

PHILIPPINES (civil procedure),
551-81.

PORTO RICO, 237-302.

QUEBEC, 114, 246-351.

RUSSIA, 212-382.

SPAIN, 199-320.

SWITZERLAND, 360-456.

III. See also supra § 986; vol.

ii, §§ 445, 449, 515-35.

Artificial persons, particularly private corporations: refer- § 994
ences. No mention at all of corporations is made in the Institutes of Justinian¹: this subject was almost entirely reserved for the fifth or last year in Roman law schools.² But the Digest and Code of Justinian are very important sources of the Roman law of corporations.³ The Theodosian Code⁴ is our great repository of information in regard to the legislation of the early Christian Emperors concerning corporations, both public and private. Another and voluminous source of information has arisen from the modern discoveries, in the remains of Roman cities, of tablets containing inscriptions of all sorts. These have been collected in Mommsen's famous *Corpus inscriptionum Latinarum*.⁵

I. Texts of Roman law:—

For English translations, see
 supra §§ 945, 946, 948, 951,
 952, 955.

— 10, 19 De metallis et metallariis.

— 10, 20 De murilegulis,
etc.— 10, 21 De vestibus,
etc.

(a) Ante-Justinian:

XII TABLES, viii, 27.

ULPIAN, Reg. xxii, 5; xxiv, 29.

COD. THEOD. 6, 13 De com-
itibus et tribunis scholarum.

— 8, 9 De lucris officiorum.

— 8, 10 De concussionibus
advocatorum, etc.— 10, 22 De fabricensi-
bus.

— 10, 23 De classicis.

— 14, 2 De privilegiis cor-
poratorum urbis Romae.— 14, 3 De pistoribus et
catabolensibus.¹ See supra vol. i, § 138.² See supra vol. i, § 161.³ Especially Dig. 3, 4, and Dig. 47, 22. See supra vol. i, §§ 136-47.⁴ See supra vol. i, § 128.⁵ This was published in 1861. As to Mommsen, see supra vol. i, § 353. The *Corpus inscript. Graecarum* (1856) is also a source of light on Roman corporation law.

- (§ 994) — 14, 4 De suariis, pecuariis, et susceptoribus vini ceterisque corporatis.
- 14, 5 De mancipibus thermarum urbis et subvectione lignorum.
- 14, 6 De calcis coctoribus urbis Romae et Constantinop.
- 14, 7 De collegiatis.
- 14, 8 De centonariis et dendroforis.
- 14, 18 De mendicantibus non invalidis.
- 14, 22 De saccariis Portus Romae.
- 14, 27 De Alexandrinae plebis primatibus.
- NOV. SEVERUS, 2.
- NOV. THEODOS. 6 De bonis fabricensium.
- NOV. VALENTINIAN. 29 De naviculariis amnicis.
- 36 De suariis, boariis et pecuariis.
- (b) **Justinian:**
- DIG. 3, 4 Quod cujuscumque universitatis, etc.
- 34, 5 De rebus dubiis, 20.
- 47, 22 De collegiis et corporibus.
- 49, 14 De jure fisci.
- 50, 16 De verb. signif., 16 and 85.
- CODE, 1, 3 De episcopis, etc. 48.
- 3, 23 Ubi quis de curiali vel cohortali . . . conveniatur.
- 6, 62 De hereditatibus decurionum, naviculariorum cohort. militum et fabricensium.
- 10, 10 De bonis vacantibus et de incorporatione.
- 11, 2 (1) De naviculariis, etc.
- 11, 3 (2) De praediis naviculariorum.
- 11, 4 (3) De navibus non excusandis.
- 11, 5 (4) Ne quid oneri publico imponatur.
- 11, 7 (6) De metallariis et metallis, etc.
- 11, 8 (7) De murilegulis, etc.
- 11, 10 (9) De fabricensibus.
- 11, 16 (15) De pistoribus.
- 11, 17 (16) De suariis.
- 11, 18 (17) De collegiatis, etc.
- 11, 26 (25) De mendicantibus validis.
- 11, 27 (26) De natuis Tiberinis.
- 12, 11 De comitibus et tribunis scholarum.
- 12, 17 De domesticis et protectoribus.
- 12, 29 (30) De privilegiis scholarum.
- Nov. 64 De hortulanis Constantinop.

(c) **Post-Justinian:**

BAS. 54, 16 De purpura imperatoris, etc.

— 54, 20 De suariis et suspectoribus vini, et reliquis corporibus.

— 54, 21 De collegiatis, etc.

— 54, 28 De jure reipublicae.

— 60, 32 De collegiis sodalitiis et corporibus, etc.

II. Modern references:—(a) **In general:**

AMOS, Roman law, pp. 118-22.¹

BALDWIN, Mod. political institutions, pp. 140-60.

BIERKAN, The imperial attitude toward Roman private corporations in the reign of Hadrian, New Haven, 1906.

BRISAUD (Howell), Hist. of French private law, p. 893, Boston, 1912.

COLQUHOUN, Roman law, §§ 835-920.

DE LA GRASSERIE, Personification et réalisation juridiques, 36 Revue gén. du droit, pp. 223-8, 322-37.

DILL, Roman society from Nero to M. Aurelius, pp. 251-86, London, 1905.

GIRARD, Manuel de droit romain⁵, pp. 235-8.

HUNTER, Roman law⁴, pp. 314-5, 799.

MACHEM, Corporate personality, 24 Harv. Law Rev. pp. 253-67, 347-65.

MACKELDEY (Dropsie), Roman law¹⁴, §§ 154-7.

MACKENZIE, Roman law⁷, pp. 160-65.

MAITLAND, The corporation sole (Collected papers, vol. iii, pp. 210-44, Cambridge, 1911).

— The crown as a corporation (Id., vol. iii, pp. 244-70).

— Moral personality and legal personality (Id., vol. iii, pp. 304-20).

MOMMSEN, De collegiis et sodaliciis Romanorum, Kiel, 1843.

MOREY, Roman law, pp. 262-6.

MOYLE, Inst. of Justinian, vol. i, 5th ed., pp. 194-5.

PETIT, Droit romain⁷, § 136.

POSTE, Gaius,⁴ pp. 118-21.

ROBY, Roman private law, vol. ii, p. 133.

SALEILLES, Les "Piae Causae" dans le droit de Justinien (Mélanges Gérardin, pp. 513-51, Paris, 1907).

— L'organisation juridique des premières communautés chrétiennes (Mélanges P. F. Girard, vol. ii, pp. 469-509, Paris, 1912).

SAVIGNY, System, vol. ii, §§ 85-102.

¹ BACKUS, Foreign corporations in Colombia, 6 Southern Calif. Law Rev., pp. 31-40.

- SCHUSTER, German civil law, §§ 48-70.
- SMITH, Dict. of Greek and Roman antiquities, "collegium," "corpus," municipium, "universitas."
- SOHM (Ledlie³), Roman law, pp. 186-203.
- WALTZING, Étude historique sur les corporations professionnelles chez les romains, 4 vols., Louvain, 1895-1900.
- (b) **Modern Codes:**
- References are to the Civil Code, unless otherwise stated.
- ARGENTINA, 30-50; Code of commerce, 313-71.
- AUSTRIA, 1216; Code of commerce.
- CHILE, 545-64; Code of commerce, 348, 424-69.
- FRANCE, Code of commerce, book i, title 3, "sociétés anonymes," etc.
- GERMANY, 21-89; Code of commerce, 182-311.
- ITALY, Code of commerce, book i, title 9, especially art. 76 et seq., 121 et seq.
- JAPAN, 33-84; Code of commerce, 42-8, 119-234.
- LOUISIANA, 427-47.
- MEXICO, Code of commerce, 89-99, 163-225, 265-7.
- PHILIPPINES, 35-9.
- PORTO RICO, 27-92.
- QUEBEC, 352-73.
- RUSSIA, 2139-98.
- SPAIN, 35-9; Code of commerce, 116-24, 151-238.
- SWITZERLAND, 52-89; Code of obligations, 612-715.
- III. See also supra vol. ii, §§ 536-56, 908-12.

§ 995 Things, ownership, and possession: references.

- I. **Texts of Roman law:** —
- For English translations, see supra §§ 945, 946, 948, 951, 952, 955.
- (a) **Ante-Justinian:**
- XII TABLES, vi, 5-6, 11; vii, 1-2, 9-10; x (all); xii, 1, 3-4.
- GAIUS, ii, 1-11, 65; iv, 153.
- PAUL. Sent. 1, 11 De satisfando.
- 1, 13b Si hereditas, etc.
- 1, 21 De supulchria, etc.
- 5, 2 De usucapione.
- 5, 19 De sacrilegis.
- 5, 19a (on res sacrae).
- 5, 26 Ad legem Juliam de vi publica, etc., §§ 3-4.

ULPIAN, Reg. 19 De dominiis et adquisi-
tion. rerum.

COD. GREGORIAN. 3 De rei vindicatione.

COD. HERMOGENIAN. Ad exhibendum.

COD. THEOD. 2, 6 De temporum cursu, etc.

— 2, 23 De rei vindicatione.

— 4, 21 Quorum bonorum.

— 4, 22 Unde vi.

— 4, 23 Utrubi.

— 4, 24 De aedificiis privatis et publicis.

— 10, 3 De locatione fundorum . . . et rei publicae.

— 11, 38 De possessione . . . transferenda.

— 14, 14 De campo Martio urbis Romae.

— 15, 3 De itinere muniendo.

COLL. MOSAIC. ET ROM. De termino amoto.

CONST. SIRMUNDIAN. 16.

NOV. MARJORIAN. 4 De aedificiis publicis.

NOV. THEOD. 19 De rescind. vendition. fundorum rei domenicæ.

— 23 De locis rei publicae, etc.

NOV. VALENTINIAN. 8 De invasoribus.

(b) **Justinian:**

INST. 2, 1 De rerum divisione, 1-11, 47, 48.

— 4, 15 De interdictis, 5.

DIG. 1, 8 De divisione rerum. (§ 995)

— 6, 1 De rei vindicatione.

— 6, 2 De Publiciana in rem actione.

— 6, 3 Si ager vectigalis, etc.

— 10, 4 Ad exhibendum.

— 11, 7 De religiosis, etc.

— 11, 8 De mortuo . . . et sepulchro, etc.

— 14, 2 De lege Rhodia de jactu.

— 39, 1 De operis novi nuntiatione, 1 and 5.

— 41, 1 De adquirendo rerum dominio.

— 41, 2 De adquirenda vel amitt. possessione.

— 41, 4 Pro emptore.

— 41, 5 Pro herede vel pro possessore.

— 41, 7 Pro derelicto.

— 41, 8 Pro legato.

— 41, 10 Pro suo.

— 42, 4 Quibus ex causis in possession., etc.

— 42, 5 De rebus auctoritate iudicis possidendis, etc.

— 43, 2 Quorum bonorum.

— 43, 3 Quod legatum.

— 43, 4 Ne vis fiat ei, qui in possession.

— 43, 6 Ne quid in loco sacro fiat.

— 43, 7 De locis et itineribus.

— 43, 8 Ne quid in loco publico, etc.

— 43, 9 De loco publico fruendo.

- (§995) — 43, 10 De via publica, etc.
- 43, 11 De via publica, etc.
- 43, 12 De fluminibus, etc.
- 43, 13 Ne quid in flumine publico, etc.
- 43, 14 Ut in flumine publico navigare, etc.
- 43, 15 De ripa munienda.
- 43, 16 De vi et vi armata.
- 43, 17 Uti possidetis.
- 43, 21 De rivis.
- 43, 27 De arboribus caedendis.
- 43, 31 Utrubi.
- 44, 3 De . . . accessionibus possessionum.
- 47, 21 De termino moto.
- 48, 7 Ad legem Juliam de vi privata.
- 50, 16 De verborum significatione.
- CODE, 2 14 (15). De his, qui potentiorum nomine titulos praediis adfigunt, etc.
- 2, 16 (17) Ut neminem liceat sine iudicis auctoritate signa imprimere rebus, quas alius tenet.
- 2, 15 (16) Ut nemo privatus titulos praediis suis vel alienis imponat, etc.
- 3, 16 Ubi de possessione agi oportet.
- 3, 19 Ubi in rem actio exerceri debet.
- 3, 27 Quando liceat sine iudice . . . vindicare, etc.
- 3, 32 De rei vindicatione.
- 6, 38 De verborum et rerum significatione.
- 7, 25 De nudo ex jure Quiritium tollendo.
- 7, 31 De . . . sublata differentia rerum Mancipi et nec Mancipi.
- 7, 32 De acquirenda et retinenda possessione.
- 7, 69 Si de momentaria possessione, etc.
- 7, 72 De bonis auctoritate iudicis possidendis, etc.
- 8, 4 Unde vi.
- 8, 5 Si per vis vel alio modo absentis perturbata possessio.
- 8, 6 Uti possidetis.
- 8, 11 (12) De operibus publicis.
- 8, 44 (45) De evictionibus.
- 8, 45 (46) Creditorem evictionem non debere.
- 9, 12 Ad legem Juliam de vi publica seu privata.
- 9, 19 De sepulchro violato.
- 9, 29 De crimine sacrilegii.
- 9, 33 Vi bonorum raptorum.
- 10, 10 De bonis vacantibus, etc.

- 10, 34 (33) De praediis. curialium, etc.
- 11 6 (5) De naufragiis.
- 11, 56 (55) Non licere . . . ad extraneum transferre.
- 11, 61 (60) De pascuis publicis vel privatis.
- 11, 75 (74) De privilegiis domus Augustae, etc.
- 11, 77 (76). De palatiis.
- Nov. 36 Ut hi qui in Africa . . . debeant vindicare.
- 65 De alienatione rerum ecclesiae Mysiae relictarum pro captivorum redemptione, etc.
- 67 Ut nullus fabricet oratorii domum praeter voluntatem episcopi, etc.
- 111 Haec const. innovat . . . praescriptionem centum annorum locis venerabilibus, etc.
- 120 De alienatione . . . rerum sacrarum.
- 131 De ecclesiast. titulis.
- 167 Generalis maxima forma . . . mitti in possessionem, etc.
- EDICTA (in appendix to Nov.), 5.

(c) **Post-Justinian:**

- THEOPHILUS, 2, 1 De rerum divisione, §§ 1-11, 47-8.
- 4, 15 De interdictis, 5.
- PROCHIRON, 38 De novis operis.

- EPANAGOGA, 39 De novis (§995) operibus.
- BAS. 2, 2 De verborum significatione.
- 7, 10 De his, qui . . . titulos praediis affigunt, etc.
- 7, 11 Ut nemo privatus titulos praediis . . . vel alienis imponat, etc.
- 7, 19 De his, qui legitimam personam in iudiciis habeant, etc.
- 9, 7 De rebus auctoritate iudicum possidendis, etc.
- 15, 1 De rebus vindicandis, etc.
- 15, 2 De Publiciana in rem actione.
- 15, 4 De rebus exhibendis, etc.
- 27, 1 De rebus, de quarum dominio disceptatur.
- 46, 3 De rerum divisione, etc.
- 50, 1 De dominio ex variis modis, etc.
- 50, 2 De acquisita vel amissa possessione.
- 50, 7 De derelictis.
- 51, 5 Ne vis fiat ei, qui in possessionem missus, etc.
- 53, 3 De naufragio, etc.
- 53, 8 Capita excerpti juris Rhodiorum navalis.
- 54, 12 De operibus publicis.
- 54, 37 De theatris.

- (§995) — 55, 13 De diversis praediis . . . templorum et civitatum, etc.
 — 56, 20 De adjectionibus.
 — 56, 21 Quomodo quis in possessionem mittendus sit.
 — 58, 8 De locis et itineribus publicis, etc.
 — 58, 10 De novi operis, etc.
 — 58, 11 De aedificiis privatis.
 — 58, 12 De operibus publicis, etc.
 — 58, 14 De interdictis.
 — 58, 15 Ne quis in loco sacro fiat.
 — 58, 16 Ne quid in flumine publico ripave, etc.
 — 58, 17 Interdictum ad retinend. possession.
 — 58, 23 Quod vi aut clam.
 — 59, 1 De monumentis, etc.
 — 59, 2 De mortuo . . . et sepulchro, etc.
 — 59, 3 De funere, etc.
 — 60, 16 De arboribus . . . caesis.
 — 60, 17 De bonis vi rap-
 tis, etc.
 — 60, 18 Ex lege Julia de
 vi publica et privata.
 — 60, 23 De violatione
 sepulcrorum, etc.
 — 60, 31 De termino moto.
 — 60, 69 De reliquis puni-
 torum.
 HEXABIBLOS, 1, 16 De mili-
 tibus. — 2, 1 De possessione et
 dominio.
 — 2, 4 De novis operibus.
 — 6, 5 De furibus . . .
 sepulcrorum, etc.
 — Leges agrariae (praefatio).
 — Leges agrariae, 1 De
 agric.
 — Leg. agr., 3 De armen-
 tariis.
 — Leg. agr., 6 De caed.
 quadruped.
 — Leg. agr., 7 De arboribus.
 — Leg. agr., 10 De novis
 operibus.
 — Appendix, title 3 De
 significatione verb.
- II. Modern references:—**
- (a) **In general:**
 AMOS, Roman law, pp. 123-
 31, 147-8, 157-60.
 ASHLEY, Origin of property in
 land (1891).
 AUSTIN, Jurisprudence³, vol.
 i, lectures 13-27, pp. 367-
 576.
 BALDWIN, Law of the air-
 ship, 4 Am. Journ. of In-
 ternat. Law, pp. 95-108.
 BEKKER, Recht d. Besitzes,
 Leipzig, 1880.
 BOND, Possession in Roman
 law, 6 Law Quart. Rev.,
 p. 259.
 BRIDGES v. HAWKESWORTH,
 15 Jur., p. 1079.

- BRISSAUD (Howell, transl.), Hist. of French private law, pp. 267, 315, Boston, 1912.
- CHABRUN, Observations sur l'ἐξουχίε possession, 37 Revue gén. du droit, p. 385.
- CHIHA, Traité de la propriété immobilière en droit ottoman, Cairo, 1906.
- COLQUHOUN, Roman law, §§ 921-33, 962-4, 1002-20.
- CORNIL, La distinction entre la possession et la detention, 6 Rev. de droit internat., p. 646.
- Acquisition de la possession par représentant en droit romain, 7 Rev. de droit internat., p. 80.
- Traité de la possession dans le droit romain, Paris, 1905.
- DE LA GRASSERIE, De la fongibilité juridique, 35 Rev. gén. de la législ. etc., 133, 335, 534.
- GIRARD, Droit romain⁵, pp. 239-92.
- HAZELTINE, Law of the air, London, 1911.
- HERZEN, Les produits de la chose et le possesseur de bonne foi (Mélan. Girard, vol. i, p. 523, Paris, 1912).
- HUNTER, Roman law⁴, pp. 231-393.
- IHERING, Grund des Besitzesschutzes, Jena, 1869 (later edition, 1886).
- (Meulenaere, transl. of (1906) above work), Du fondement de la protect. possession., Ghent, 1875.¹
- JULLIOT, De la propriété du domaine aérien, Paris, 1909.
- LIGHTWOOD, Possession in Roman law, 3 Law Quart. Rev., p. 32.
- MACKELDEY (Dropsie), Roman law¹⁴, §§ 158-70, 236-67, 294-8.
- MACKENZIE, Roman law⁵, pp. 166-72, 180-81.
- MAITLAND, Possession for year and a day (Collected papers, vol. ii, p. 61, Cambridge, 1911).
- MARIA, Observations sur la possession du défendeur à la rei vindicatio (Études d'hist. jurid. off. à P. F. Girard, vol. ii, p. 223, Paris, 1913).
- MARTIN, Observations sur l'operis novi nuntiatio (Études d'hist. jurid. off. à P. F. Girard, vol. i, p. 123).
- Possession as a root of title, 33 Canadian Law Times, 1073.
- MOREY, Rom. law, pp. 269-87.
- MOYLE, Inst. of Justinian, vol. i, 5th ed., pp. 187-98, 332-41, 394, 398.
- PERREAU, Origine et développement de la théorie de l'abus du droit, 37 Rev. gén. du droit, p. 481.

¹JONES, Expropriation (eminent domain) in Roman Law, 45 Law Quart. Rev., p. 512 (1929). SEE also supra vol. ii, § 572, footnote 1.

- § (995) PEROZZI, Un paragone in materia di conproprietà (Mélanges P. F. Girard, vol. ii, p. 355, Paris, 1912).
- PETIT, Droit romain⁵, §§ 137-71, 193.
- PISSARD, Duci vel ferri jubere . . . dans les actions réelles, etc. (Études d'hist. off. à P. F. Girard, vol. ii, p. 241, Paris, 1913).
- POLLOCK, Essay on possession in the Common Law, New York, 1889.
- POSTE, Gaius⁴, pp. 118-21.
- SALEILLES, Possession des meubles de droit allemand et de d. français, Paris, 1907.
- SAVIGNY, Das Recht d. Besitzes⁷, Vienna, 1865.
- (Perry, transl. of above work), Jus possessionis of the Civil Law, London, 1848 (fr. 6th German ed.).
- (Staedler, transl. of the above work), Traité de la possession en droit romain³, Paris, 1879.
- System, vol. i, §§ 56-9; vol. iii, §§ 113-39 and Appendix 8; vol. vii, §§ 330-33; vol. viii, §§ 366-8, 383-8, 390-91, 398-400.
- SCHUSTER, German law, §§ 71-9, Oxford, 1907.
- SOHM (Ledlie³), Roman law, pp. 302-11, 327-37.
- SOKOLOWSKI, Philosophie im Privatrecht, Halle, 1907.
- SO. STAFFORDSHIRE CO. v. SHARMAN, 2 Q. B. (1894), p. 44.
- TEISEN, Adverse possession — prescription, 2 Am. Bar Ass'n Journal, p. 126.
- WALTON, Civil codes and their revision. The title: "of ownership," 1 So. Law Qt., p. 95.
- WILLIAMS, "Real" and "personal" in English law, 4 Law Quart. Rev., p. 394.
- (b) **Modern Codes:**—
- References are to the Civil Code, unless otherwise stated.
- ARGENTINA, 2345-2539, 2638-40.
- AUSTRIA, 285-379, 825-58.
- CHILE, 565-605, 700-731, 889-950.
- FRANCE, 517-46, 2219-35.
- GERMANY, 854-928, 1008-11.
- ITALY, 406-43, 673-709.
- JAPAN, 175-264.
- LOUISIANA, 448-97, 3426-56.
- MEXICO, 680-735, 822-64.
- PHILIPPINES (See Willard, Notes to Spanish Civil Code, pp. 36-40, Manila, 1904).
- PORTO RICO, 324-59, 399-468.
- QUEBEC, 374-413.
- RUSSIA, 383-556.
- SPAIN, 333-50, 384-466.
- SWITZERLAND, 641-729.
- III. See also *infra* §§ 997-9; *supra* vol. ii, §§ 557-81.

Personal, praedial, and praetorian servitudes: references. § 996

- A. Usufructus, usus, habitatio, operae (personal servitudes):**
- 7, 6 Si usus fructus petetur, etc.
- 7, 7 De operis servorum.
- I. Texts of Roman law:—**
- For English translations, see supra §§ 945, 946, 948, 951, 952, 955.
- (a) Ante-Justinian:**
- GAIUS, ii, 12–42, 86–7.
- PAUL. Sent. 1, 11 De satisfaciendo (usufruct).
- ULPIAN, Reg. 19 De dominiis, etc.
- VATICAN FRAG. 41–93 De usu fructu.
- (b) Justinian:**
- INST. 2, 1 De rerum divisione, 35–8.
- 2, 2 De rebus incorporal.
- 2, 4 De usufructu.
- 2, 5 De usu et habitatione.
- 2, 9 Per quas personas nobis acquiritur, as far as § 3.
- DIG. 7, 1 De usu fructu, etc.
- 7, 2 De usu fructu ad crescendo.
- 7, 3 Quando . . . usus fructus legati cedat.
- 7, 4 Quibus modis usus fructus vel usus amittitur.
- 7, 5 De usu fructu earum . . . quae usu consumuntur, etc.
- 7, 8 De usu et habitatione.
- 7, 9 Usufructuarius quemadmodum caveat.
- 8, 1 De servitutibus.
- 8, 6 Quemadmodum servitutes amittuntur.
- 43, 25 De remissionibus.
- CODE, 3, 33 De usufructu et habitatione et ministerio servorum.
- 5, 10 Si secundo nupserit mulier, etc. (usufruct).
- (c) Post-Justinian:**
- THEOPHILUS, 2, 1 De rerum divisione, 35–8.
- 2, 2 De rebus corporal., etc.
- 2, 4 De usufructu.
- 2, 5 De usu et habitatione.
- 2, 9 Per quas personas . . . acquiritur, as far as § 3.
- BAS. 16, 1 De usufructu.
- 16, 2 De usufructu accrescente.
- 16, 3 Quibus diebus usufructus legatus cedat.
- 16, 4 Quibus modis usufructus amittatur.
- 16, 5 De usufructu rerum, quae usu minuuntur.

- (§996) — 16, 6 Si usufructus petatur, etc.
 — 16, 7 De operis servorum.
 — 16, 8 De usu et habitatione.
 — 16, 9 Usufructuarius quemadmodum caveat.
 — 44, 5 De usu . . . et habitatione et operis, etc.
 — 44, 6 De servitute legata.
 — 58, 1 De servitutibus.
 HEXABIBLOS, 2, 10 De . . . usufructu.

B. Servitudes of land (praedial servitudes):

I. Texts of Roman law: —

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

XII TABLES, vii, 1-2, 6-10.
 GAIUS, iv, 3.

PAUL. Sent. 1, 17 De servitutibus.

ULPIAN, Reg. 19 De dominiis, etc.

CODE THEOD. 15, 2 De aquaeductu.

(b) Justinian:

INST. 2, 2 De rebus incorporal.
 — 2, 3 De servitutibus.

— 4, 6 De actionibus, 2.

DIG. 8, 1 De servitutibus.

— 8, 2 De serv. praed. urban.

DIG. 8, 3 De serv. praed. rustic.

— 8, 4 Communia praed. tam urban. quam rustic.

— 8, 5 Si servitus vindicetur, etc.

— 8, 6 Quemadmodum serv. amittuntur.

— 39, 1 De operis novi nuntiatione.

— 39, 2 De . . . suggrundis et projectionibus.

— 39, 3 De aqua et aquae pluviae arcendae.

— 43, 19 De itinere, etc.

— 43, 20 De aqua cottidiana et aestiva.

— 43, 21 De rivis.

— 43, 22 De fonte.

— 43, 25 De remissionibus.

— 43, 27 De arboribus caedendis.

— 47, 3 De tigno juncto.

CODE, 3, 34 De servitutibus, etc.

— 8, 10 De aedificiis privatis.

— 11, 43 (42) De aquaeductu.

NOV. 63 De novi operis nuntiatione marini aspectus.

— 165 Generalis . . . de prospectu maris, etc.

(c) Post-Justinian:

THEOPHILUS, 2 2 De rebus corporal., etc.

— 2, 3 De servitutibus.

— 4, 6 De actionibus, 2.

PROCHIRON, 38 De novis operibus.

EPANAGOGA, 39 De novis operibus.

BAS. 44, 6 De servitute legata.

— 58, 1 De servitibus.

— 58, 2 De serv. praed. urban.

— 58, 3 De serv. praed. rustic.

— 58, 4 De commun. praed. tam urban. quam rustic.

— 58, 5 Si servitus vindicetur, etc.

— 58, 6 Quemadmodum serv. amittantur.

— 58, 7 De servitute et aqua.

— 58, 10 De novi operis nunciatione, etc.

— 58, 11 De aedificiis privatis.

— 58, 13 De aqua et aqua pluvia arcenda.

— 58, 14 De interdictis.

— 58, 19 De magnis aqueductibus.

— 58, 20 De aqua quotidiana et aestiva, et de rivis.

— 58, 21 De fonte.

— 58, 22 De cloacis.

HEXABIBLOS, 2, 4 De novis operibus.

— Leges agrariae, 10 De novis operibus.

C. Praetorian servitudes: (§996)

1. **Emphyteusis and superficies:**

I. **Texts of Roman law: —**

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) **Ante-Justinian:**

GAIUS, iii, 145.

CODE THEOD. 5, 12 De fundis patrimonial. et saltuensibus et emphyteuticis, etc.

— 10, 3 De locatione fundorum juris emphyteutici et rei publicae et templorum.

— 11, 19 De conlatione fund. patrimonial. vel emphyteuticorum, etc.

(b) **Justinian:**

INST. 3, 24 De locatione, etc., 3 (emphyteusis).

DIG. 43, 18 De superficiebus.

CODE, 4, 66 De emphyteutico jure.

— 11, 62 (61) De fundis patrimonial. et saltuensibus et emphyteuticis, etc.

— 11, 63 (62) De mancipiis et colonis . . . et salt. et emphyteutic., etc.

— 11, 64 (63) De fugitiv. colonis . . . emphyteuticis, etc.

— 11, 65 (64) De collatione fundorum emphyteutic.

(§996) NOV. 55 Ut . . . liceat perpetuam emphyteusin . . . ecclesia, etc.

NOV. 120 De alienatione emphyteosi, etc.

(c) **Post-Justinian:**

THEOPHILUS, 3 24 De locatione, etc., 3 (emphyteusis).

ECLOGA, 12 De emphyteusibus, etc.

PROCHIRON, 15 De emphyteusi.

EPANAGOGA, 10 De ecclesiast. emphyteusibus.

BAS. 5, 2 De . . . emphyteuserum ecclesiast.

— 20, 2 De emphyteusi.

— 58, 18 De superficiebus.

HEXABIBLOS, 3, 4 De emphyteusi.

2. **Fiducia, pignus, hypotheca, and privilegium.**

I. **Texts of Roman law:**

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) **Ante-Justinian:**

GAIUS ii, 64.

PAUL. Sent. 2, 4 De . . . pignore fiduciave.

— 2, 5 De pignoribus.

— 2, 13 De lege commissoria.

COD. HERMOGENIAN. De pignoribus.

COD. THEOD. 2, 30 De pignoribus.

— 3, 2 De commissoria rescind.

— 11, 9 De distrahendis pignoribus, etc.

(b) **Justinian:**

INST. 2, 8 Quibus alienare, etc., 1 (hypotheca).

— 4, 6 De action. 7 (hypotheca).

DIG. 13, 7 De pigneraticia actione, etc.

— 18, 3 De lege commissoria.

— 20, 1 De pignoribus et hypothecis, etc.

— 20, 2 In quibus causis pignus vel hypotheca tacite contrahitur.

— 20, 3 Quae res pignori vel hypothecae, etc.

— 20, 4 Qui potiores in pignore vel hypotheca . . . et . . . qui in prior. creditor. locum succedunt.

— 20, 5 De distractione pignorum et hypothecarum.

— 20, 6 Quibus modis pignus vel hypotheca solvitur.

— 43, 25 De remissionibus.

— 43, 32 De migrando.

— 43, 33 De Salviano interdicto.

CODE, 2, 28 (29) Si adv. vend. pignoris.

— 4, 24 De actione pigneraticia.

- 4, 51 De . . . prohibita rerum . . . hypotheca.
 - 7, 8 De servo pignori dato, etc.
 - 7, 73 De privilegio fisci.
 - 7, 74 De privilegio dotis.
 - 8, 9 De . . . Salviano interdicto.
 - 8, 13 (14) De pignoribus.
 - 8, 14 (15) In quibus causis pignus tacite contrahitur.
 - 8, 15 (16) Si aliena res pignori data sit.
 - 8, 16 (17) Quae res pignori obligari possunt, etc.
 - 8, 17 (18) Qui potiores in pignore, etc.
 - 8, 18 (19) . . . Qui in prior. creditor. locum succedunt.
 - 8, 19 (20) Si antiquior creditor pignus vend.
 - 8, 20 (21) Si communis res pignorata, etc.
 - 8, 21 (22) De praetorio pignore, etc.
 - 8, 22 (23) Si in causa iudicati pignus, etc.
 - 8, 23 (24) Si pignus pignori datum, etc.
 - 8, 24 (25) De partu pignoris, etc.
 - 8, 25 (26) De remissione pignoris.
 - 8, 26 (27) Etiam ob chirograph. pecuniam pignus, etc.
 - 8, 27 (28) De distrac-(\$996) tione pignorum.
 - 8, 28 (29) Debitor. vend. pignorum, etc.
 - 8, 29 (30) Si vendito pignore agatur.
 - 8, 30 (31) De luitione pignoris.
 - 8, 31 (32) Si unus ex pluribus heredibus creditor. vel debitor. partem suam debiti solverit vel acceperit.
 - 8, 32 (33) Si pignoris conventionem, etc.
 - 8, 33 (34) De jure domini impetrando.
 - 8, 34 (35) De pactis pignorum et de commissoriarum lege . . . rescind.
 - 8, 44 (45) De evictionibus.
 - 8, 45 (46) Creditor. eviction. non debere.
 - Nov. 7 De . . . ecclesiast. rebus . . . in specialem hypothecam, etc.
 - 52 Ut non fiant pignorationes pro aliis personis, etc.
 - 120 De . . . hypothecis, etc.
- (c) **Post-Justinian:**
- THEOPHILUS, 2, 8 Quibus alienare, 1.
- 4, 6 De action., 7.
- ECLOGA, 10 De . . . pignoribus, etc.

- (§996) PROCHIRON, 16 . . . De pignore.
- EPANAGOGA, 28 De . . . pignore.
- BAS. 10, 11 Si adv. vend. pignorum.
- 19, 3 De lege commissoria, etc.
- 19, 8 De . . . prohibita rerum . . . hypotheca, etc.
- 25, 1 De pigneratitia actione.
- 25, 2 De pignoribus et hypothecis, etc.
- 25, 3 In quibus causis pignora vel hypothecae tacite contrahantur.
- 25, 4 Quae res pignori vel hypothecae, etc.
- 25, 5 Qui potiores in pignoribus vel hypothecis . . . et . . . qui in prior. creditor. locum succedunt.
- 25, 6 Quomodo et quando militiae pignori, etc.
- 25, 7 De distractione pignorum et hypothecarum.
- 25, 8 Quibus modis pignus vel hypotheca solvatur.
- HEXABIBLOS, 3, 5 De . . . pignore.
- D. Personal, praedial, and praetorian servitudes:**
- I. Modern references:—**
- (a) **In general:**
- ABBOT, Extinguishment of easements by impossibility of user, 13 Columbia Law Rev., p. 409.
- ACTON *v.* BLUNDELL, 12 Meeson and Welsby Excheq. Rep. 342.
- ADMIRALTY lien, 148 U. S. Supreme Ct. Rep., p. 1.
- AMOS, Roman law, pp. 148–54, 174.
- BRISSAUD (Howell, transl.), Hist. of French private law, pp. 408–20, 603, Boston, 1912.
- CAHOON *v.* MIERS, 67 Md. 573.
- CAMPBELL *v.* MESIER, 4 Johns Chan. (N. Y.), 334.
- CHAMPEAUX, Le principe de simplicité des anciens actes jurid. romains et le gage (Mélanges P. F. Girard, vol. i, p. 155, Paris, 1912).
- COLLINET, La tradition des servitudes dans le droit de Justinien (Mélanges P. F. Girard, vol. i, p. 185).
- COLQUHOUN, Roman law, §§ 934–61, 1021–35, 1461–1501.
- DENIS, Treatise on the law of pledge as gov. both by the Common and the Civil Law, New Orleans, 1898.
- ESMEIN, Pignus hypothecave (Mélanges P. F. Girard, vol. i, p. 419, Paris, 1912).
- EVART, Servitudes, 29 Canadian Law Times, p. 19.

- FIRTH, The quasi grant of easements in Eng. and Rom. law, 10 *Law Quart. Rev.*, p. 323.
- GIRARD, *Droit romain*⁵, pp. 356-86, 518-25, 767-87.
- HAGLUND, The Roman law of municipal water supply and aqueduct service, New Haven, 1914.
- HERZEN, Le concours de plusieurs hypothèques (*Mélanges Gérardin*, p. 299).
- HUNTER, *Roman law*⁴, pp. 394-447.
- MACHELARD, Examen . . . des distinctions . . . en ce qui concerne les servitudes prédiales, Paris, 1868.
- MACKELDEY (Dropsie), *Roman law*¹⁴, §§ 304-59.
- MACKENZIE, *Roman law*⁷, pp. 182-93, 228.
- MOREY, *Roman law*, pp. 288-301.
- MOYLE, *Inst. of Justinian*, vol. i, 5th ed. pp. 214-20, 322, 329.
- PERSIL, *Régime hypothécaire*, Paris, 1833.
- PETIT, *Droit romain*⁷, §§ 215-54.
- PAMPALONI, La nuda proprietà, etc. (*Mélanges P. F. Girard*, vol. ii, p. 331, Paris, 1912).
- POSTE, *Gaius*⁴, pp. 129-46, 327.
- PROUDHON, *Traité des droits d'usufruct*, Dijon, 1836.
- RABEL, Zu den praetorischen Servituten und den Superficies (*Mélanges P. F. Girard*, vol. ii, p. 386, Paris, 1912).
- SAVIGNY, *Recht des Besitzes*⁷, §§ 22a-26, 45-7.
- *System*, vol. viii, § 368.
- SCHUSTER, *German law*, §§ 351-406, Oxford, 1907.
- SCHWARZ, *Hypothek und Hypallagma*, etc., Leipzig, 1911.
- SEGRÉ, La denominazione "actio confessoria in . . . usufrutto e delli servitù" (*Mélanges P. F. Girard*, vol. ii, p. 511, Paris, 1912).
- SOHM (Ledlie³), *Roman law*, pp. 337-57.
- THÉLOHAN, De la stipulatio operarum (*Études off. à P. F. Girard*, vol. i, p. 355, Paris, 1913).
- TRUSTEES *v.* DICKINSON, 9 Cush. (Mass.), 544.
- VOET (Berwick, transl.), *Commentary on the Pandects*, book 13, title 7, books 18-21, on . . . mortgages, London, 1902.
- WEIL, A short code of underground water, 2 *Cal. Law Rev.*, p. 25.
- WHEELER *v.* INSURANCE CO., 101 U. S. Sup. Ct. Rep., p. 443.

(b) **Modern Codes:**—

References are to the Civil Code, unless otherwise stated.

ARGENTINA, 2841-3312.

AUSTRIA, 472-530.

CHILE, 732-888, 2384-2491.

FRANCE, 578-710, 2073-2203.

GERMANY, 581-7, 1012-1296.

ITALY, 476-672, 1556-67, 1948-2053.

JAPAN, 265-398.

LOUISIANA, 533-869, 3182-3411.

MEXICO, 865-1058, 1773-1964, 3066-3150.

PHILIPPINES (same as Spain: but see Willard, Notes to Spanish Code, Manila, 1904).

PORTO RICO, 469-615, 1758-1830.

QUEBEC, 443-582, 1966-2182.

RUSSIA, 433-51, 1587-1678.

SPAIN, 467-608, 1857-1929.

SWITZERLAND, 667-712, 730-918.

II. See also *infra* § 1024; *supra* vol. ii, §§ 582-624, 763, 939.

§ 997 **Occupancy, accession, delivery, and adjudication: references.**A. **Occupancy:**

— 11, 45 (44) De venatione ferarum.

I. **Texts of Roman law:**—

For English translations, see *supra* §§ 945, 946, 948, 951, 952, 955.

(a) **Ante-Justinian:**

GAIUS, ii, 65-9, 72.

COD. THEOD. 10, 18 De thesauris.

— 15, 11 De venatione ferarum.

(b) **Justinian:**

INST. 2, 1 De rerum divisione, 11-19, 22, 39, 47-8.

DIG. 41, 1 De adquirendo rerum dominio.

CODE, 10, 15 De thesauris.

(c) **Post-Justinian:**

THEOPHILUS, 2 1 De rerum divisione, 11-19, 22, 39, 47-8.

BAS. 50, 1 De dominio ex variis modis, etc.

HEXABIBLOS, 2, 6 De . . . inventione thesauri.

B. **Accession:**I. **Texts of Roman law:**—

For Eng. transl., see *supra* §§ 945, 946, 948, 951, 952, 955.

(a) **Ante-Justinian:**

XII TABLES, vi, 7-9.

GAIUS, 2, 71-78.

NOV. THEOD. 20 De adluvionibus.

(b) **Justinian:**

INST. 2, 1 De rerum divisione, 20-34.

DIG. 22, 1 De usuris et fructibus . . . et . . . accession., etc.

— 41, 1 De adq. rerum dominio.

— 43, 28 De glande legenda.

CODE, 6 47 De usuris et fructibus, etc.

— 7, 41 De adluvion., etc.

(c) **Post-Justinian:**

THEOPHILUS, 2, 1 De rerum divisione, 20-34.

BAS. 50, 1 De dominio ex variis modis, etc.

— 50, 16 De alluvione.

HEXABIBLOS, 2, 1 De . . . dominio.

C. Delivery (traditio):

I. Texts of Roman law: —

For Eng. transl., see supra §§ 945, 946, 948, 951, 952, 955.

(a) **Ante-Justinian:**

XII TABLES, vi, 10.

ULPIAN, Reg. 19 De . . . acquisition. rerum.

(b) **Justinian:**

INST. 2, 1 De rerum divisione, 40-41, 44-6.

DIG. 41, 1 De acquirendo rer. (§997) dominio.

(c) **Post-Justinian:**

THEOPHILUS, 2, 1 De rer. divisione, 40-41, 44-6.

BAS. 50, 1 De dominio ex variis modis, etc.

D. Adjudication:

I. Texts of Roman law: —

For Eng. transl., see supra §§ 945, 946, 948, 951, 952, 955.

(a) **Ante-Justinian:**

XII TABLES, vii, 5; xii, 3.

PAUL. Sent. 1, 16 Finium regundorum.

— 1, 18 De familiae herciscundae.

ULPIAN, Reg. 19 De . . . acquisition. rerum.

COD. GREGORIAN. 3 De familiae herciscundae et communi dividundo.

COD. THEOD. 2, 24 De familiae herciscundae.

— 2, 25 De communi dividundo.

— 2, 26 De finium regundorum.

(b) **Justinian:**

INST. 4, 17 De officio judicis, 4-7.

DIG. 10, 1 Finium regundorum.

- (§997) — 10, 2 *Familiae erciscundae*.
 — 10, 3 *Communi dividundo*.
 CODE, 3 36 *Familiae erciscundae*.
 — 3, 37 *Communi dividundo*.
 — 3, 38 *Communia . . . familiae erciscundae quam communi dividundo*.
 — 3, 39 *Finium regund*.
 — 6, 59 *Communia de successionibus*.
 (c) **Post-Justinian:**
 THEOPHILUS, 4, 17 *De officio judicis*, 4-7.
 BAS. 12, 2 *De rerum communium divisione*.
 — 12, 3 *Communia . . . familiae erciscundae quam communi dividundo*.
 — 42, 3 *Familiae erciscundae*.
 — 58, 9 *De finibus regund*.
 E. **Occupancy, accession, delivery, and adjudication:**
 I. **Modern References:—**
 (a) **In general:**
 AMOS, *Roman law*, pp. 160-7.
 ARNO, *Textura* (Mélanges P. F. Girard, vol. i, p. 27, Paris, 1912).
 BONFANTE, *Le vera data . . . e il concetto romano del tesoro* (Mélanges P. F. Girard, vol. i, p. 122).
 BRISSAUD (Howell), *Hist. of French priv. law*, pp. 367-98, Boston, 1912.
 COCHRANE *v.* MOORE, L. R. 25 Q. B. Div., 57.
 COLLINET, *La tradition des servitudes, etc.* (Mélanges P. F. Girard, vol. i, p. 185).
 COLQUHOUN, *Rom. law*, §§965-1001.
 FOSTER *v.* WRIGHT, L. R. 4 C. P. Div., 438.
 HINDSON *v.* ASHBY, 2 Ch. Rep. (1894), 1.
 GERVAIS, *De la condition légale des lapins de garennes, des poissons d'étangs et des pigeons de colombiers*, 33 *Revue gén. du droit*, p. 193.
 GIRARD, *Droit romain*⁵, pp. 293, 313, 316, 318.
 HUNTER, *Roman law*⁴, pp. 255, 274, 282, 988.
 LAMBERT, *La tradition romaine*, Paris, 1901.
 MACKELDEY (Dropsie), *Roman law*¹⁴, §§ 166, 167, 270, 280, 281.
 MACKENZIE, *R. law*⁷, pp. 173-9.
 MOREY, *R. law*, pp. 302-12.
 MOYLE, *Inst. of Justinian*, vol. i, 5th ed., pp. 198, 200, 209, 225. .
 PEROZZI, *Un paragone in materia di comproprietà* (Mél. Girard, vol. ii, p. 355).

PETIT, Droit romain⁷, §§ 172–91, 213.

PETOT, Fructus duplio (Études d'hist. jurid. off. à P. F. Girard, p. 211, Paris, 1913).

POSTE, Gaius⁴, pp. 132–66.

RICCOBONO, La forma delle donazioni, etc. (Mélanges P. F. Girard, vol. ii, p. 415).

SCHUSTER, German civil law, §§ 190, 335, 340, Oxford, 1912.

SENN, La question du transfert de la propriété sous un terme extinctif ou une condition résolutoire et la const. de Dioclétien (Études d'hist. jurid. off. à P. F. Girard, vol. i, p. 283).

SOHM (Ledlie³), Roman law, pp. 310, 312, 317, 323.

ST. CLAIR *v.* LOVINGSTON, 23 Wall. (U. S. S. C.), 46.

(b) **Modern Codes:**

References are to the Civil Code, unless otherwise stated.

ARGENTINA, 2540–644.

AUSTRIA, 380–446.

CHILE, 606–99.

FRANCE, 544–77, 1604–24.

GERMANY, 929–84.

ITALY, 436–75, 711–19.

JAPAN, 239–48.

LOUISIANA, 499–532, 2477–90.

MEXICO, 729–821, 2851–72.

PHILIPPINES (same as Spain, but see Willard, Notes to Spanish code, pp. 36, 84).

PORTO RICO, 360–91, 1365–76.

QUEBEC, 583–95, 1492–1505.

RUSSIA, 699–706.

SPAIN, 353–406, 1462–73.

SWITZERLAND, 642–54, 657–64, 714–27.

II. See also *supra* § 995; vol. ii, §§ 625–44.

Prescription: references.

§ 998

I. Texts of Roman law:—

For English translations, see *supra* §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

XII TABLES, vi, 3 and 5; vii, 4, 6–8; viii, 17; x, 11.

GAIUS, ii, 43–61.

PAUL. Sent. 1, 17 De servitutibus.

— 5, 2 De usucapione.

ULPIAN, Reg. 19. De dominiis, etc.

COD. THEOD. 2, 6. De temporum cursu, etc.

— 4, 11 De longi temporis praescriptione.

— 4, 14 De actionibus certo tempore finiendis.

— 4, 15 De quinquennii praescriptione.

NOV. THEOD. De amota milit. fori praescriptione.

- (§998) NOV. VALENTINIAN. 27 De
xxx ann. praescriptione,
etc.
- (b) **Justinian:**
- INST. 2, 6 De usucapion. et
longi temporis possession.
- DIG. 6, 2 De Publiciana in
rem actione.
- 41, 3 De usurpation. et
usucapion.
- 41, 4 Pro emptore.
- 41, 5 Pro . . . posses-
sore.
- 41, 6 Pro donato.
- 41, 7 Pro derelicto.
- 41, 8 Pro legato.
- 41, 9 Pro dote.
- 41, 10 Pro suo.
- 43, 2 Quorum bonorum.
- 43, 3 Quod legatum.
- 43, 4 Ne vis fiat ei, qui in
possession. missus, etc.
- 43, 17 Uti possidetis.
- 43, 22 De fonte.
- 43, 24 Quod vi aut clam.
- 43, 31 Utrubi.
- 44, 3 De diversis prae-
scription., etc.
- CODE, 2 35 (36) Si adv.
usucapion.
- 7, 22 De longi temporis
praescriptione, etc.
- 7, 26 De usucapion. pro
emptore, etc.
- 7, 27 De usucapion. pro
donato.
- 7, 28 De usucapion. pro
dote.
- 7, 29 De usucapion. pro
herede.
- 7, 30 Communia de usu-
capion.
- 7, 31 De usucapion. trans-
form., etc.
- 7, 32 De adq. et retin.
possession.
- 7, 33 De praescriptione
. . . x vel xx ann.
- 7, 34 In quibus causis
cessat . . . praescriptio.
- 7, 35 Quibus non obic-
iatur . . . praescriptio.
- 7, 36 Adv. creditor.
- 7, 37 De quadrennii prae-
scriptione.
- 7, 38 Ne rei domenicae
vel templorum vindicatio
temporis exceptione sub-
moveatur.
- 7, 39 De praescription.
xxx vel xl ann.
- 7, 40 De . . . praescrip-
tion. et interruption.
- 8, 6 Uti possidetis.
- NOV. 9 Ut ecclesia Romana
centum ann. habeat prae-
scription.
- 111 Haec const. innovat.
const. quae praescription.
centum ann. . . dederat.
- EDICTA (appendix to NOV.)
5.
- (c) **Post-Justinian:**
- THEOPHILUS, 2, 6 De ususca-
pion. et longi temporis prae-
scription.

- BAS. 10, 18 Si adv. usucapion.
 — 44, 25 De possession. et usucapion., etc.
 — 45, 6 De Armeniis, et . . . Rom. leges sequantur.
 — 48, 24 De long. temp. praescription., etc.
 — 50, 3 De usurpation. et possession.
 — 50, 4 Pro emtore.
 — 50, 5 Pro . . . bonorum possessore.
 — 50, 6 De donatis.
 — 50, 8 De dote.
 — 50, 9 De rebus . . . pro suis, etc.
 — 50, 10 De dominio per usum non acq. communiter.
 — 50, 11 De praescription. . . . x vel xx ann.
 — 50, 12 In quibus causis cesset . . . praescriptis, etc.
 — 50, 13 De quadrennii praescriptione, etc.
 — 50, 14 Adv. creditor.; et de praescription. xxx vel xl ann.
 — 50, 15 De . . . diversis . . . praescription. et interruption.
 — 51, 3 De diversis . . . praescription., etc.
 — 53, 3 De naufragio, etc.
 — 58, 17 Interdict. ad retin. possession.
 — 58, 23 Quod vi aut clam.
 HEXABIBLOS, 1, 3 De action. et temporibus.
 — 2, 1 De . . . dominio.

II. Modern references:— (§998)

(a) **In general:**

- AMOS, Roman law, pp. 161-4.
 BRISSAUD (Howell), Hist. of French private law, pp. 351-63, Boston, 1912.
 COLQUHOUN, Roman law, §§ 1109-47.
 ESMEIN, Sur l'hist. de l'usucapion (Mélanges, p. 171, Paris, 1886).
 GIRARD, Droit romain⁵, pp. 299-312.
 HERBERT, Hist. of . . . prescription in England, Cambridge, 1890.
 HUNTER, Roman law⁴, pp. 288-90, 645-9.
 JOURDAN, Prescription d'après le code civil allemand, Paris, 1906.
 MACKELDEY (Dropsie), Roman law¹⁴, §§ 285-92, 213.
 MACKENZIE, Roman law⁷, pp. 194-203.
 MOREY, Roman law, pp. 309-11.
 MOYLE, Inst. of Justinian, vol. i, 5th ed., p. 225.
 PETIT, Droit romain⁷, §§ 197-212.
 POSTE, Gaius⁴, pp. 132-57.
 RALSTON, Prescription, 4 Am. Journ. of Internat. Law, p. 133.
 SAVIGNY, Recht d. Besitizes, §§ 24, 29-43.

— System, vol. iv, §§ 177–203, appendix 2; vol. v, §§ 231–55; vol. viii, §§ 390–91.

SCHUSTER, German law, §§ 131–7, Oxford, 1907.

SOHM (Ledlie³), Roman law, pp. 318–22.

TEISEN, Adverse possession — prescription, 2 Am. Bar Ass'n Journal, p. 126.

(b) **Modern Codes:**

References are to Civil Code, unless otherwise stated.

ARGENTINA, 3981–4077.

AUSTRIA, 1451–1502.

CHILE, 2492–524.

FRANCE, 2219–81.

GERMANY, 186–225.

ITALY, 2105–47.

JAPAN, 144–74.

LOUISIANA, 3457–3555.

MEXICO, 1059–1129.

PHILIPPINES (same as Spain, but see Willard, Notes on Spanish Code, pp. 83–4, Manila, 1904).

PORTO RICO, 1831–76.

QUEBEC, 2201–70.

RUSSIA, 557–67.

SPAIN, 1930–75.

SWITZERLAND, 661–4, 728.

III. See also *supra* §995; vol. ii, §§ 645–56.

§ 999 **Gift: references.**

I. **Texts of Roman law:—**

For English translations, see *supra* §§ 945, 946, 948, 951, 952, 955.

(a) **Ante-Justinian:**

GAIUS, ii, 228.

PAUL. Sent. 3, 7 De mortis causa donation.

— 5, 11 De donation.

ULPIAN, Reg. 15 De decimis.

COD. GREGORIAN. 13 De donation., etc.

COD. HERMOGENIAN. De donation.

COD. THEOD. 2, 20 De inofficios donation.

— 8, 12 De donation.

— 8, 13 De revocandis don.

NOV. LEO and SEVERUS, 1.

NOV. VALENTINIAN. 32 De confirmandis . donata., etc.

VATICAN FRAG. 248–59 Quando donator intellegatur revocasse voluntatem.

— 260–316 Ad legem Cinciam de donation.

(b) **Justinian:**

INST. 2, 7 De donation.

— 2, 22 De lege Falcidia, 1.

DIG. 37, 7 De dotis collatione.

— 39, 5 De donation.

— 39, 6 De mortis causa donation.

— 41, 6 Pro donato.

CODE, 2, 29 (30) Si adv. donation.

- 3, 29 De inofficiosis donation.
- 5, 16 De donation. inter vir. et uxor. et a parent. in liberos, etc.
- 7, 27 De usucapion. pro donato.
- 8, 53 (54) De donation.
- 8, 54 (55) De donation . . . sub modo, etc.
- 8, 56 (57) De mortis causa donation.
- Nov. 52 Ut . . . neque a privatis in imperator. factae donationes indigeant.
- 73 De instrument., etc.
- 87 De mortis causa donation., etc.
- 162 Sacra forma transmissa dominico, etc., 1.

(c) **Post-Justinian:**

- THEOPHILUS, 2, 7 De donation.
- 2, 22 De lege Falcidia, 1.
- ECLOGA, 4 De donation., etc.
- PROCHIRON, 12 De donation.
- 13 De revocandis donation.
- EPANAGOGA, 22 De revocandis donation.
- BAS. 10, 12 Si adv. donation.
- 19, 14 De fundo sine pub. tributis . . . donando.
- 41, 5 De immensis donation. in liberos collatis.
- 47, 1 De donation. inter vivos.

- 47, 2 De revocation. don. (§999)
- 47, 3 De mortis causa donation.
- 50, 6 De donatis.
- 60, 42 De iis, quibus ut indignis relictæ, etc.
- HEXABIBLOS, 3, 1 De don.
- 3, 2 De revoc. donation.

II. Modern references:—

(a) **In general:**

- AMOS, Roman law, pp. 335.
- BRISAUD (Howell), Hist. of French priv. law, pp. 675, 684, 703, Boston, 1912.
- COCHRANE v. MOORE, L. R. 25 Q. B. Div., 57.
- COLQUHOUN, Roman law, §§ 1050-75.
- DUQUESNE, Donatio, etc. (Mélanges P. F. Girard, vol. i, p. 389, Paris, 1912).
- FENNER, An example of Homeric nodding in relation to the reduction of donations inter vivos, 1 So. Law Qt., p. 129.
- GAVET, De l'allegatio gestis (Mélanges P. F. Girard, vol. i, p. 499).
- GIRARD, Droit romain⁵, pp. 935-49.
- HUNTER, Roman law⁴, pp. 318, 915.
- MACKELDEY (Dropsie), Roman Law¹⁴, §§ 463-9.
- MACKENZIE, Roman law⁷, pp. 257-61.

- MONNIER, *La Novelle 50 de Leon la Sage et l'insinuation des donations* (Mélanges P. F. Girard, vol. ii, p. 236).
- MOYLE, *Inst. of Justinian*, vol. i, 5th ed. p. 232.
- PETIT, *Droit romain*⁷, §§ 416, 426.
- POSTE, *Gaius*⁴, p. 367.
- RICCOBONO, *La forma delle donazione*, etc. (Mélanges P. F. Girard, vol. ii, p. 415).
- ROBY, *Rom. priv. law*, vol. i, p. 525.
- SAVIGNY, *System*, vol. iv, §§ 142-76, appendices 9 and 10.
- SCHUSTER, *German law*, §§ 199-204, Oxford, 1907.
- SOHM (Liedlie⁸), *Roman law*, pp. 206-12.
- (b) **Modern Codes:**
References are to the Civil Code, unless otherwise stated.
- ARGENTINA, 1823-1902.
- AUSTRIA, 938-56.
- CHILE, 953, 1136-46, 1386-1436.
- FRANCE, 711, 893-1100.
- GERMANY, 516-34.
- ITALY, 710, 1050-96.
- JAPAN, 549-54.
- LOUISIANA, 1467-1570, 1734-55.
- MEXICO, 2594-2660.
- PHILIPPINES, 618-56.
- PORTO RICO, 625-64.
- QUEBEC, 754-830.
- RUSSIA, 967-93.
- SPAIN, 618-56.
- SWITZERLAND (Code of Obligations, 239-52).
- III. See also supra § 988; vol. ii, §§ 477-80, 657-60.

§ 1000 Inheritance and intestate succession: references.

- I. **Texts of Roman law:** — — 1, 13b Si hereditas . . . petatur.
- For English translations, see — 3, 1 De Carboniano edicto.
- supra §§ 945, 946, 948, 951, — 3, 1a (bonorum possessio).
- 952, 955.
- (a) **Ante-Justinian:** — 3, 2 De bonis liberti.
- XII TABLES, v, 4-5, 8-10. — 3, 3 De lege Fabiana.
- GAIUS, i, 156; ii, 97-100, — 3, 5 Ad SC. Silianum.
- 152-73; iii, 1-85. — 4, 4 De repudiando hereditate.
- PAULUS, *Sent.* 1, 11 De satisfaciendo.

- 4, 8 De intestatorum successione.
 - 4, 9 Ad SC. Tertullianum.
 - 4, 10 (on intestacy).
 - 4, 11 De gradibus.
 - 5, 12 De jure fisci, etc.
 - ULPIAN, Reg. 15 De decimis.
 - 17, De caducis.
 - 18, Qui habeant jus antiquum in caducis.
 - 26, De legitimis heredibus.
 - 27, De libertorum succession.
 - 28, De possessionibus dandis.
 - 29, De bonis libertorum.
 - COD. GREGORIAN. 2, 17 Si ut se hereditate, etc.
 - COD. HERMOGENIAN. De successionibus.
 - COD. THEOD. 2, 22 De hereditatis petitione.
 - 4, 1 De creatione vel bonorum possessione.
 - 4, 2 Unde liberi.
 - 4, 3 De Carboniano edicto.
 - 4, 6 De natural. filiis et matribus.
 - 4, 21 Quorum bonorum.
 - 5, 1 De legitimis hereditatibus.
 - 5, 2 De decurion.
 - 5, 3 De clericorum, etc.
 - 5, 6 De bonis militum.
 - 8, 16 De infirmandis poenis caelibatus et orbitatis.
 - 8, 17 De jure liberorum. (§ 1000)
 - 10, 8 De bonis vacantibus.
 - 10, 9 De incorporatione.
 - COLL. MOSAIC. ET ROM. 16 De legitima successione.
 - NOV. ANTHEMIUS, 3 De bonis vacantibus.
 - NOV. MARJORIAN. 5 De bonis caducis, etc.
 - 6 De sanctimonialibus vel viduis et de succession. earum.
 - NOV. VALENTINIAN. 3 De succession. curial. qui ad clericatum, etc.
 - 14 De fructibus inter maritum et uxorem expensis filiis vel hered. non imputandis.
 - 25 De libertis et succession.
- (b) **Justinian:**
- INST. 1, 15 De legit. agnatorum, etc.
 - 2, 9 Per quas personas, etc., 6.
 - 2, 19 De heredum qualitate et differentia.
 - 3, 1 De hereditatibus . . . ab intestato, etc.
 - 3, 2 De legit. agnatorum succession.
 - 3, 3 De SC. Tertulliano.
 - 3, 4 De SC. Orphitiano.
 - 3, 5 De succession. cognat.
 - 3, 6 De gradibus cognat.

- (§ 1000) — 3, 7 De successione libertorum.
- 3, 8 De adsignatione libertorum.
- 3, 9 De bonorum possessionibus.
- DIG. 5, 3 De hereditatis petitione.
- 5, 4 Si pars hereditatis petatur.
- 5, 5 De possessoria hereditatis petitione.
- 11, 7 De religiosis et sumptibus funerum, etc.
- 11, 8 De mortuo inferendo et sepulchro aedificando.
- 25, 4 De . . . ventre custodiendoque partu.
- 25, 6 Si mulier ventris, etc.
- 28, 8 De jure deliberandi.
- 29, 2 De adq. vel omit. hereditate.
- 29, 4 Si quis omissa causa testamenti ab intestato possideat hered.
- 29, 5 De SC. Siliano, etc.
- 37, 1 De bonorum possessionibus.
- 37, 2 Si tabulae testamenti extabunt.
- 37, 3 De bonorum possessione furioso, etc.
- 37, 4 De bonorum possessione contra tabulas.
- 37, 5 De legatis praestandis contra tabulas bonorum possessionis petita.
- 37, 6 De collatione bonorum.
- 37, 7 De dotis collatione.
- 37, 8 De conjungendis cum emancipato liberis.
- 37, 9 De ventre in possessionem mittendo, etc.
- 37, 10 De Carboniano edicto.
- 37, 11 De bonorum possessione secundum tabulas.
- 37, 12 Si a parente quis manumissus, etc.
- 37, 13 De bonorum possessione ex testamenti militis.
- 37, 14 De jure patronatus.
- 37, 15 De obsequiis parentibus et patronis, etc.
- 38, 1-5 de actione in successione contra freedmen.
- 38, 6 Si . . . unde liberi.
- 38, 7 Unde legitimi.
- 38, 8 Unde cognati.
- 38, 9 De successorio edicto.
- 38, 10 De gradibus, etc.
- 38, 11 Unde vir et uxor.
- 38, 12 De veteranis et militum successione.
- 38, 15 Quis ordo in possessionibus, etc.
- 38, 16 De suis et legitimis heredibus.
- 38, 17 Ad SC. Tertullianum et Orphitianum.
- 41, 5 Pro herede vel pro possessore.

- 42, 5 De separationibus.
- 47, 19 Expilatae hereditatis.
- 47, 23 De popular. action.
- CODE, 2, 38 (39) Si ut se hereditate absteineat.
- 2, 39 (40) Si ut omissam hereditatem, etc.
- 3, 20 Ubi de hereditate agatur.
- 3, 31 De petition. hered.
- 3, 44 De relig. et sumptibus funerum.
- 4, 11 Ut actiones et ab herede et contra heredem incipiant.
- 4, 12 Ne uxor pro marito, vel marit. pro ux. vel mater pro filio, etc.
- 4, 16 De action. hered.
- 4, 17 Ex delictis defunctorum in quantum heredes conveniantur.
- 4, 39 De hered. vel action. vendita.
- 6, 9 Qui admitti ad bonorum possessionem, etc.
- 6, 10 Quando non petentium partes . . . ad crescant.
- 6, 14 Unde liberi.
- 6, 15 Unde legitimi.
- 6, 16 De edicto successorio.
- 6, 17 De Carboniano edicto.
- 6, 18 Unde vir et uxor.
- 6, 19 De repud. bonorum possessione.
- 6, 20 De collationibus. (§ 1000)
- 6, 27 De necessariis et servis heredibus, etc.
- 6, 30 De jure deliberandi et de adeunda . . . hered.
- 6, 31 De repud. vel abstinend hered.
- 6, 35 . . . ad SC. Silianum.
- 6, 48 De incertis personis.
- 6, 51 De caducis tollendis.
- 6, 52 De his qui ante apertas tabulas hered. transmittunt.
- 6, 55 De suis et legitimis liberis et ex filia nepotibus ab intestato, etc.
- 6, 56 Ad SC. Tertulianum.
- 6, 57 Ad SC. Orfitianum.
- 6, 58 De legit. heredibus.
- 6, 59 Communia de successionibus.
- 6, 60 De bonis maternis, etc.
- 6, 61 De bonis quae liberis in postestate constitutis, etc.
- 6, 62 De hereditat. decurionum, naviculariorum, etc.
- 7, 29 De usucapione pro herede.
- 7, 72 . . . de separationibus.
- 8, 2 Quorum bonorum.
- 8, 57 (58) De infirmis poenis caelibatus et orbitatis, etc.

- (§1000) — 10, 10 De bonis vacanti-
bus, etc.
- 10, 13 De his qui se
deferunt.
- 10, 14 Si liberalitatis im-
perial. socius sine herede,
etc.
- 10, 35 (34) Quando et
quibus debetur quarta para
decurion., etc.
- 10, 63 (61) De periculo
successorum parentis.
- Nov. 2 De non eligendo se-
cundo nubentes mulieres
. . . et de succession. earum
filiis suis.
- 18 De triente et semisse
et succession. filiorum et
nepotum naturalium vel col-
lation., etc.
- 21 De Armeniis ut ipsi
. . . sequantur Romanor-
um leges.
- 36 Ut hi qui in Africa,
etc.
- 68 Ut constitutio . . .
quae in successionibus in
lucra nuptialia ex orbitatis,
etc.
- 89 Quibus modis natur-
ales efficiuntur sui.
- 101 De donationibus a
curialibus factis suis, etc.
- 118 De heredibus ab
intestato venientibus et de
agnatorum jure sublato.
- 127 De fratris filii
succedentibus una cum as-
cendentibus, etc.
- 131 De ecclesiasticis ti-
tulis.
- 158 Ut deliberandi jus
. . . transmittatur.
- 164 De hereditatibus.
- EDICTA (in appendix to Nov.)
3 De Armeniorum succes-
sione.
- (c) **Post-Justinian :**
- THEOPHILUS, i, 15; 11, 9, §6;
ii, 19; iii, 1-9. The titles of
these are the same as supra
(b), INST. 1, 15-3, 9.
- PROCHIRON, 30 De heredibus.
- 37 De tempore quo cre-
ditores adv. heredes, etc.
- EPANAGOGA, 33 De heredibus.
- 35 De temporibus quibus
creditors adv. heredes de-
functi, etc.
- BAS. 9, 6 Quibus ex causis in
possession. mittantur.
- 9, 7, 38-44 on separatio
bonorum.
- 10, 21 Si quis se heredi-
tate absteineat.
- 10, 22 Si quis hered. cer-
tam vel bonorum posses-
sionem . . . omiserit.
- 15, 4 De rebus exhiben-
dis, etc.
- 24, 7 De action. hered.
et in quantum heredes ten-
eantur ex delictis defunc-
torum.
- 31, 8 Si mulier ventris,
etc.

- 31, 9 Si mulier ventris, etc.
 - 35, 2 De conditional. institutionibus.
 - 35, 14 . . . de bonorum possessione.
 - 35, 15 Si quis omitta causa testamenti ab intestato hered. possideat.
 - 35, 17 De bonorum poss. secundum tabulas.
 - 35, 18 Ut deliberandi jus . . . transmit.
 - 40, 1 De bonorum possessione proprie sumta.
 - 40, 2 De bonorum possessione furiosi, etc.
 - 40, 3 De bonorum poss. contra tabulas.
 - 40, 4 De conjungendo cum emancipato filio, etc.
 - 40, 5 De Carboniano edicto, etc.
 - 40, 6 Si a parent. quis emancipatus, etc.
 - 40, 7 . . . et de bon. poss. secundum tabulas et de bon. poss. libertorum.
 - 40, 8 De repud. bonorum possessionem et unde legitimi.
 - 40, 9 De bonorum possessione et de petitione hereditatis.
 - 41, 6 De jure jurando, . . . defunctus substantiae, etc.
 - 41, 7 De collatione bonorum.
 - 42, 1 De petitione hered., (§1000) etc.
 - 42, 2 Si pars hereditatis petatur, et de possessoria, etc.
 - 44, 29 Quod non dictatur liberis orbatus, etc.
 - 45, 1 De successione ab intestato cognatorum.
 - 45, 2 Actio, quam lex dat cognatis.
 - 45, 3 De gradibus cognatorum, . . . et quod ex aequo succedant per virilem et femininum sexum cognati.
 - 45, 5 Actio, per quam vir vel uxor, si cognati non sint, sibi invicem succedunt.
 - 45, 6 De Armeniis, ut . . . Roman. leges sequantur.
 - 50, 5 De herede aut bonorum possessore.
 - 60, 29 De expilata hereditate.
 - HEXABIBLOS, 5, 8 De hereditibus.
 - 5, 13 (12) Quo tempore creditores adv. defuncti heredes agere possunt.
- II. Modern references:—**
- (a) **In general:**
- AMOS, Roman law, pp. 308 et seq.
- BALLANTINE, Our grotesque inheritance laws, 25 Green Bag, 253.

- (§1000) BRISSAUD (Howell), *Hist. of French private law*, pp. 626-57.
- COLQUHOUN, *Roman law*, §§ 1359-1460.
- ECONOMIDES, *Succession ab intestato*, in the *New Pandects*, V (in Greek).
- FLACH, *La bonorum possessio sous les empereurs depuis le 2^e siècle jusqu'à Justinien*, Paris, 1870.
- GIRARD, *Manuel de droit romain*⁵, pp. 842-51.
- HUNTER, *Roman law*⁴, pp. 830-74.
- LAMBERT, *La fonction du droit civil comparé*, First series, 1903.
- LEE, *Intestate succession of husband and wife in Roman-Dutch law*, 26 *Journal of Comparative Legis.* p. 310 (May, 1912).
- MACKELDEY (Dropsie), *Roman law*¹⁴, §§ 649-82.
- MACKENZIE, *Roman law*⁷, pp. 323-42.
- MEARS, *Gaius and Justinian*, ch. i, London, 1882.
- MOREY, *R. law*, pp. 313, 329.
- PAPARRIGOPOULO, *Law of successions* (in Greek).
- PETIT, *Droit romain*⁷, §§ 657 et seq.
- POLYGENES, *The law of succession* (in Greek).
- ROGUIN, *Traité de droit civil comparé*, 2 vols. Paris, 1908.
- SAVIGNY, *System*, vol. viii, §§ 375-8, 393-5, 399.
- SCHMIDT, *De successione fisci in bona vacan.*, Jena, 1836.
- SCHUSTER, *German civil law*, §§ 468 et seq.
- SOHM (Ledlie³), *Roman law*, pp. 502-39.
- THOMPSON, *The right of the adopted child in int. succession*, 2 *Am. Bar Ass'n Journal*, p. 135.
- (b) **Modern Codes:**
- References are to the Civil Code, unless otherwise stated.
- ARGENTINA, 3313-3624.
- AUSTRIA, 531-51, 727-61, 797-824.
- CHILE, 980-98, 1222-69.
- FRANCE, 718-892.
- GERMANY, 1922-2063.
- ITALY, 720-58, 923-1049.
- JAPAN, 964-1059.
- LOUISIANA, 870-1464.
- MEXICO, 3571-3702.
- PHILIPPINES, 912-1087. (But see WILLARD, *Notes to Spanish Civil Code*, pp. 59-66, Manila, 1904.)
- PORTO RICO, 886-1054.
- QUEBEC, 596-751.
- RUSSIA, 1104-1373.
- SPAIN, 912-1087.
- SWITZERLAND, 457-66, 537-640.
- III. See also *infra* §1001; *supra* vol. ii, §§ 661-77.

**Wills, legacies, trusts (fideicommissa), and codicils: refer-§ 1001
ences.**

I. Texts of Roman law:—

For English translations, see
supra §§ 945, 946, 948, 951,
952, 955.

(a) Ante-Justinian:

XII TABLES, v, 3, 9-10.

GAIUS, ii, 115-289.

PAULUS, Sent. 3, 4a De testa-
mentis.

— 3, 4b De institutione
heredum.

— 3, 5a (codicils).

— 3, 6 De legatis.

— 3, 8 Ad legem Falcidiam.

— 3, 9 (legacy and fideicom.).

— 4, 1 De fideicommissis.

— 4, 2 De SC. Trebelliano.

— 4, 3 De SC. Pegasiano.

— 4, 5 De inofficiosi quer-
ela.

— 4, 7 De lege Cornelia.

— 4, 13 De fideicom. liber-
tatibus.

— 5, 12 De jure fisci, etc.

— 5, 25 Ad legem Corne-
liam testamentariam.

ULPIAN, Reg. 17 De caducis.

— 18 Qui habeant jus anti-
quum in caducis.

— 20 De testamentis.

— 21 Quemadmodum heres
instituti debeant.

— 22 Qui heredes instituti
possunt.

— 23 Quemadmodum tes-
tamenta rumpuntur.

— 24 De legatis.

— 25 De fideicommissis.

COD. GREGORIAN. 2 De in-
officioso testamento.

COD. HERMOGENIAN. De suc-
cessionibus.

— De testamentis.

COD. THEOD. 2, 19 De inoffi-
cioso testamento.

— 2, 20 De inoffic. donation.

— 2, 21 De inoffic. dotibus.

— 4, 4 De testamentis et
codicillis.

— 6, 22 De honorariis codi-
cillis.

NOV. MARCIAN. 5 De testa-
mentis clericorum.

NOV. THEOD. 16 De testa-
mentis.

NOV. VALENTINIAN. 21 De
testamentis.

(b) Justinian:

INST. 2, 7 De donation., 1.

— 2, 9 Per quas personas,
etc. 6.

— 2, 10 De testamentis or-
dinandis.

— 2, 11 De militari testa-
mento.

— 2, 12 Quibus non est
permissum testamenta
facere.

— 2, 13 De exheredatione
liberorum.

- (§ 1001) — 2, 14 De heredibus instituendis.
- 2, 15 De vulgari substitutione.
- 2, 16 De pupillari substitutione.
- 2, 17 Quibus modis testamenta infirmantur.
- 2, 18 De inofficioso testamento.
- 2, 19 De heredum qualitate et differentia.
- 2, 20 De legatis.
- 2, 21 De ademptione legatorum.
- 2, 22 De lege Falcidia.
- 2, 23 De fideicommissariis hereditatibus.
- 2, 24 De singulis rebus per fideicommissum relictis.
- 2, 25 De codicillis.
- DIG. 5, 2 De inofficioso testamento.
- 5, 6 De fideicom. hered. petitione.
- 28, 1 Qui testamenta facere possunt et quemadmodum, etc.
- 28, 2 De liberis et postumis heredibus inst. vel exhered.
- 28, 3 De injusto rupto irritato testamento.
- 28, 4 De his quae in testamento delentur induc. vel inscribuntur.
- 28, 5 De heredibus instituendis.
- 28, 6 De vulgari et pupillari substitutione.
- 28, 7 De condicionibus institutionum.
- 28, 8 De jure deliberandi.
- 29, 1 De testamento militis.
- 29, 2 De adquir. vel omit. hereditate.
- 29, 3 Testamenta quemadmodum aperiantur, etc.
- 29, 4 Si quis omissa causa testamenti ab intestato . . . possideat hereditatem.
- 29, 5 De SC. Siliano et Claudiano; quorum testamenta ne aperiantur.
- 29, 6 Si quis aliquem testari prohibuerit, etc.
- 29, 7 De jure codicillorum.
- 30 De legatis et fideicommissis.
- 31 De legatis et fideicommissis.
- 32 De legatis et fideicommissis.
- 33, 1 De annuis legatis et fideicommissis.
- 33, 2 De usu et usu fructu et redditu . . . per legatum vel fideicom. datis.
- 33, 3 De servitute legata.
- 33, 4 De dote praelegata.
- 33, 5 De optione vel electione legata.
- 33, 6 De tritico vino vel oleo legata.

- 33, 7 De instructo instrumento legato.
- 33, 8 De peculio legato.
- 33, 9 De penu legata.
- 33, 10 De suppellectile legata.
- 34, 1 De alimentis . . . legatis.
- 34, 2 De auro argento . . . veste . . . et statu legatis.
- 34, 3 De liberatione legata.
- 34, 4 De adimendis vel transfer. legatis vel fideicommissis.
- 34, 5 De rebus dubiis.
- 34, 6 De his quae poenae causa relinq.
- 34, 7 De regula Catoniana.
- 34, 8 De his quae pro non scriptis habentur.
- 34, 9 De his quae ut indignis auferuntur.
- 35, 1 De condicionibus et . . . demonstration. . . . quae in testamentis, etc.
- 35, 2 Ad legem Falcidiam.
- 35, 3 Si cui plus, quam per legem Falcidiam lic., legatum, etc.
- 36, 1 Ad SC. Trebellianum.
- 36, 2 Quando dies legatorum vel fideicommissorum cedat.
- 36, 3 Ut legatorum seu fideicom. servand. causa (§1001) caveatur.
- 36, 4 Ut in possession. legatorum vel fideicom. servand. causa esse liceat.
- 37, 2 Si tabulas testamenti extabunt.
- 37, 4 De bonorum possessio contra tabulas.
- 37, 5 De legatis praestandis contra tabulas bon. poss. petita.
- 37, 11 De bonorum possessione secundum tabulas.
- 37, 13 De bonorum poss. ex testamento militis.
- 40, 5 De fideicom. liberatibus.
- 41, 8 Pro legato.
- 43, 3 Quod legatum.
- 43, 5 De tabulis exhibendis.
- 47, 4 Si quis, qui testamento liber esse jussus . . . post mortem domini ante aditam hered. subripuisse, etc.
- 50, 16 De verborum significatione.
- CODE, 3, 17 Ubi fideicom. peti oportet.
- 3, 28 De inofficiosi testamento.
- 3, 29 De inoffic. donation.
- 3, 30 De inoffic. dotibus.
- 6, 11 De bonorum poss. secundum tabulas.
- 6, 12 De bonorum poss. contra tabulas.

- (§ 1001) — 6, 13 De bonorum poss. contra tabulas liberti, etc.
 — 6, 21 De testamento militis.
 — 6, 22 Qui facere testamentum possunt, etc.
 — 6, 23 De testamentis, quemadmodum . . . ordinantur.
 — 6, 24 De heredibus instituendis, etc.
 — 6, 25 De instituendis vel substitutionibus, etc.
 — 6, 26 De impuberum et de aliis substitution.
 — 6, 27 De necessariis et . . . inst. vel substitution.
 — 6, 28 De liberis praeteritis vel exhereditatis.
 — 6, 33 De edicto divi Hadriani tollendo et quemadm. scriptus heres in possession. mitt.
 — 6, 34 Si quis alium testari prohibuerit, etc.
 — 6, 36 De codicillis.
 — 6, 37 De legatis.
 — 6, 38 De verborum et rerum significatione.
 — 6, 39 Si ommissa sit causa testamenti.
 — 6, 40 De indicta viduitate et de lege Julia miscella tollendo.
 — 6, 41 De his quae poenae nomine in testamentis vel codicillis relinq.
 — 6, 42 De fideicommissis.
 — 6, 43 Communia de legatis et fideicommissis, etc.
 — 6, 44 De falsa causa adjecta legato vel fideicommisso.
 — 6, 45 De his quae sub modo legata vel fideicommissa reliq.
 — 6, 47 De usuris et fructibus legatorum vel fideicom.
 — 6, 48 De incertis personis.
 — 6, 49 Ad SC. Trebellianum.
 — 6, 50 Ad legem Falcidiam.
 — 6, 51 De caducis tollendis.
 — 6, 52 De his qui ante apertas tabulas hereditates transmit.
 — 6, 53 Quando dies legati vel fideicom. cedit.
 — 6, 54 Ut in possession. legatorum et fideicom. servand. causa, etc.
 — 8, 3 Quod legatum.
 — 8, 7 De tabulis exhibendis.
 — 9, 23 De his qui sibi abscribunt in testamento.
 — 9, 32 De crimine expilatae hereditatis.
 Nov. 1 De heredibus et Falcidia.
 — 18 De triente et semisse et succession. filiorum et nepotum naturalium, etc.
 — 66 Ut factae novae constitutiones . . . valeant. Parcit . . . subtilitatem constitution. super testamentis in reliq. quadrante, etc.

— 92 De immensis donation. in filios.

— 107 De testamentis imperfectis a parentibus in filios factis, etc.

— 108 De restitutionibus.

— 159 De restitutione fideicommissi, etc.

(c) **Post-Justinian :**

THEOPHILUS, ii, 7, 9-25. The titles of these are the same as supra (b), INST. ii, 7, 9-25.

ECLOGA, 5 De personis testari prohibitis et de testamentis per scripturam vel per nuputationem faciendis.

PROCHIRON, 21 De testamento hominum sui juris.

— 22 De testamento hominum alieni juris.

— 23 De testamento libertorum.

— 24 De testamento episcoporum et monachorum.

— 25 De infirmatione testamenti.

— 29 De codicillis.

— 30 De heredibus.

— 32 De Falcidia.

— 33 De exheredibus.

— 35 De legatis.

EPANAGOGA, 29 De testamento et codicillo.

— 30 De his quibus non est permissum facere testamentum.

— 31 De testamento hominum alieni juris.

— 32 De infirmatione testamenti.

— 34 De Falcidia et exheredibus.

— 36 De legato.

BAS. 35, 1 De testamento et codicillis, et quinam . . . facere possunt, et quemadmodum testamenta fiant.

— 35, 2 De testamento et quemadmodum testamenta ordinentur.

— 35, 3 Qui testamenta facere possint, etc.

— 35, 4 Si quis aliquem testari prohibuerit, etc.

— 35, 5 De tabulis exhibendis, etc.

— 35, 6 Testamenta quemadmodum aperiantur, etc.

— 35, 7 De his, quae in testamento cancellata . . . vel inducta, vel deleta, vel adscripta.

— 35, 8 De liberis et postumis heredibus institutis vel exhereditis, vel . . . praeteritis, etc.

— 35, 9 De heredum institutione et substitutione.

— 35, 10 De substitutione hominum, etc.

— 35, 11 De SC. Trebelliano, etc.

— 35, 13 De jure institutionis, . . . et de substitutis, etc.

- (§1001) — 35, 14 De acq. et omit.,
et adeunda et exquirenda
hereditate . . . et de bon-
orum possessione.
- 35, 15 Si quis omissa
causa testamenti ab intes-
tato . . . hered. possideat.
- 35, 16 De dominis, qui
insidiis . . . necati, etc.
- 35, 17 De bonorum pos-
sessione secundum tabulas.
- 35, 18 Ut deliberandi
jus . . . transmit.
- 35, 19 De edicto divi
Hadriani tollendo, et quo-
modo heres scriptus in pos-
session. mittatur.
- 35, 20 De divisionibus,
et de voluntatibus, inter
liberos, etc.
- 35, 21 De testamento
militis.
- 36, 1 De codicillis.
- 39, 1 De querela testa-
menti.
- 39, 2 De injusto et rupto
et irritato testamento.
- 40, 3 De bonorum pos-
sessione contra tabulas.
- 40, 7 Quando non . . .
partes accrescant, et de
bon. poss. secundum tabu-
las et de bonorum poss.
libertorum.
- 41, 1 De Falcidia.
- 41, 2 Si quis plus, quam
per legem Falcidiam lic.,
legatum sit.
- 41, 3 SC. . . . Trebelli-
anum, et de eis qui . . . et
Falcidiam retinere debent.
- 41, 4 De heredibus et
Falcidia.
- 41, 5 De immensis dona-
tion. in liberis, etc.
- 41, 6 De jure jurando,
quod defunctus de modo
substantiae, etc.
- 42, 2 Si pars hered. peti-
tur . . . et fideicom. hered.
petitione.
- 44, 1 De legatis et fidei-
commissis.
- 44, 2 De legatis et fidei-
commissis.
- 44, 3 De legatis et fidei-
commissis.
- 44, 4 De annuis legatis
et fideicom.
- 44, 8 De optione vel
electione legata.
- 44, 9 De tritico vino
oleo legata.
- 44, 10 De instructo vel
instrumento legato.
- 44, 11 De peculio legato.
- 44, 12 De penu legata.
- 44, 13 De suppellectile
legata.
- 44, 14 De alimentis lega-
tis.
- 44, 15 De auro argento
. . . vel statu is legatis.
- 44, 17 De ademtione vel
translatione legatorum vel
fideicom.

- 44, 18 De rebus dubiis legatis, et de incertis personis.
- 44, 19 De conditione et demonstratione . . . Quae in testamentis de legatis, etc.
- 44, 20 De eo, quibus diebus legatum vel fideicommissum cesset.
- 44, 21 Cuinam legatorum et fideicom. servand. gratia heres caveat.
- 44, 22 De eo, ut in possession. legatorum vel fideicom. . . . liceat.
- 44, 23 De legatis praestandis contra tabulas bonorum possessione petita.
- 44, 24 Interdictum adv. legatarios.
- 44, 25 De possessione et usucapione legatorum, etc.
- 44, 26 Si omissa sit causa testamenti.
- 44, 27 Communia de legatis et fideicommissis, etc.
- 44, 28 De legatis vel fideicommissis sub modo relictis.
- 44, 29 Quod non dictatur liberis orbatus qui nepotem, etc.
- 44, 30 De adscendentibus et descendantibus, quomodo ad eos legata transmit.
- 44, 31 Tunc possessio legatorum vel fideicom. servand. causa permissa, etc.

- 48, 13 De fideicom. li- (\$1001) bertantibus, etc.
- 60, 42 De iis, quibus ut indignis relicta legata vel hereditates, etc.
- HEXABIBLOS, 5, 1 De testamento hominum sui juris.
- 5, 2 De testamento hominum alieni juris.
- 5, 3 De testamento liberorum.
- 5, 4 De testamento episcoporum et monachorum.
- 5, 5 De infirmatione testamenti.
- 5, 6 De querela et op-pugnatione testamenti.
- 5, 7 De codicillis.
- 5, 9 De Falcidia.
- 5, 10 De exheredatis.
- 5, 11 (10) De legato.
- Appendix, title 3 De significatione verborum.

II. Modern references: —

(a) In general:

- AMOS, Perpetuities in French law, 13 Journal Soc. Compar. Legis. N. S., p. 47 (on substitutions).
- Roman law, pp. 305 et seq.
- BRISSAUD (Howell), Hist. of French private law, pp. 684-748.
- BRUNE, Origin and history of succession in Roman law, 36 Law Mag. & Rev., p. 429.

- (§1001) COIN-DESLISLE, *Donations et testaments*, Paris, 1855.
- COLQUHOUN, *Roman law*, §§ 1148-1358.
- DECLAREUIL, *Quelques notes sur certains types de fidéi-commis* (Mélanges Gérardin, p. 135, Paris, 1907).
- ESMEIN, *Le testament du mari*, etc. (Mélanges, p. 36, Paris, 1886).
- GIRARD, *Manuel de droit romain*⁵, pp. 800-842.
- GOFFIN, *Testamentary executors in England and elsewhere*, London, 1901.
- HAFFOLD, *Form of a will in Germany*, 38 *Law Mag. and Rev.*, pp. 154-9.
- HUNTER, *Roman law*⁴, pp. 764-830.
- JOB -DUVAL, *Explication de la loi 16 au Code, de inofficioso testamento*, 3, 28 (Mélanges Gérardin, p. 355, Paris, 1907).
- LEHR, *Des successions testamentaires d'après les principaux codes de l'Europe*, 8 *Revue de droit internat.*, p. 136.
- LENEL, *Die . . . quod legatum* (Mélanges P. F. Girard, vol. ii, p. 63, Paris, 1912).
- MCDONOGH'S *Ex. v. MURDOCK*, 15 *Howard (U. S. Supreme Court Rep.)*, 367.
- MCGREGOR, *The vesting and divesting of rights under a will in Roman-Dutch law*, 26 *Law Quart. Rev.*, p. 126.
- MACKELDEY (Dropsie), *Roman law*¹⁴, §§ 683-731.
- MACKENZIE, *Roman law*⁷, pp. 288-98.
- MARZO, *Sopra alcuni casi di revoca dei fedecommissi* (Mélanges P. F. Girard, vol. ii, p. 145, Paris, 1912).
- MATHIEU, *Traité des substitutions fidéi-commis-saires*, Montreal, 1888.
- MOREY, *Roman law*, pp. 313-28, 334.
- PAMPALONI, *La nuda proprietà nella dottrina dei legati* (Mélanges P. F. Girard, vol. ii, p. 331, Paris, 1912).
- PELLERINI, *French law of wills, probate and death-duties*, London, 1909.
- PERPETUITIES, *How to beat the rule against*, 12 *Mich. Law Rev.*, p. 53.
- PERROT, *L'exercice de l'interdit quod legatorum*, etc., (Études off. à P. F. Girard vol. i, p. 171, Paris, 1913).
- PETIT, *Droit romain*⁷, §§ 536 et seq.
- PULCIANO, *Il diritto romano nell' Epist. di Plinio il giovane*, Turin, 1913.
- SAVIGNY, *System*, vol. viii, §§ 375-8, 393-5, 399.
- SCHUSTER, *German civil law*, §§ 481 et seq.

- SEROIS, *De la forme des testaments*, Montreal, 1910.
 SOHM (Ledlie³), *Roman law*, pp. 540 et seq.
 TRIANTAPHYLLOPULOS, *The lex Falcidia in Byzantine law* (in Greek), 1912.
 VOET (Macgregor, transl.), *Commentary on the Pandects* (legacies and fideicommissa), book 26, titles 1-2, Capetown, 1902.
- (b) **Modern Codes:**
 References are to the Civil Code, unless otherwise stated.
- ARGENTINA, 3640-3908.
 AUSTRIA, 552-796.
 CHILE, 951-1436.
 FRANCE, 893-1100.
 GERMANY, 2064-2385.
 ITALY, 759-1096.
 JAPAN, 1060-1146.
 LOUISIANA, 871, 1467-1733.
 MEXICO, 3227-3570, 3637.
 PHILIPPINES, 657-911. (See Willard, *Notes on Spanish Civil Code*, pp. 47-50, Manila, 1904.)
 PORTO RICO, 664-885.
 QUEBEC, 754-981.
 RUSSIA, 1010-1103.
 SPAIN, 657-911.
 SWITZERLAND, 457-640.
- III. See also supra § 1000; vol. ii, §§ 678-715.

Obligations (including formation, correality, transmissibility, performance, tender, release, rescission, loss of thing due, novation. submission to arbitration, set-off, confusion, joinder of issue, extinctive prescription); general principles of contracts (including parties, meeting of the minds, form, consideration): references.

- I. **Texts of Roman law:**—
 For English translations, see supra §§ 945, 946, 948, 951, 952, 955.
- (a) **Ante-Justinian:**
 XII TABLES, vi, 1-2; viii, 19.
 GAIUS, i, 184, 192-5; ii, 12-19; iii, 88-9, 97-114, 163-81; iv, 61, 64-8, 110-14.
 PAULUS, *Sent.* 1, 1 *De pactis et conventis*.
 — 1, 7 *De integri restitutione*.
 — 2, 1 *De rebus creditis et jure jurando*.
 — 5, 7 *De obligationibus*.
 — 5, 8 *De novationibus*.
 COD. GREGORIAN. 1, 10 *De pactis*.
 — 1, 11 *De transactionibus*.

- (§ 1002) — 2 De his quae vi metusve causa.
- 3 Si major fuerit probatus.
- 4 Si amissis vel debitori redditis instrumentis creditum petatur.
- 4 Si debito persoluto instrument., etc.
- 12 De duobus reis stipulandi et promittendi.
- COD. HERMOGENIAN. De pactis et transactionibus.
- Ex delictis defunctorum, etc.
- COD. THEOD. 2, 9 De pactis et transactionibus.
- 4, 5 De litigiis.
- 11, 28 De indulgentiis debitorum.
- (b) **Justinian:**
- INST. 1, 21 De auctoritate tutor. (as far as § 3).
- 2, 2 De rebus incorporalibus.
- 3, 13 De obligationibus.
- 3, 15 De verb. obligation., 7.
- 3, 16 De duobus reis stipulandi et promittendi.
- 3, 19 De inutilibus stipulation.
- 3, 24 De locatione et conduct., 6.
- 3, 28 Per quas personas acquir.
- 3, 29 Quibus modis obligatio tollitur (as far as § 5).
- 4, 6 De actionibus, 30 and 39.
- 4, 12 De perpetuis et temporal. action et quae ad heredes vel in heredes transeunt.
- DIG. 2, 14 De pactis.
- 2, 15 De transactionibus.
- 4, 8 De receptis.
- 12, 4 De condictione causa data non secuta.
- 12, 5 De condictione ob turpem vel injustam causam.
- 12, 6 De condictione indebiti.
- 12, 7 De condictione sine causa.
- 13, 4 De eo quod certo loco dari oportet.
- 16, 2 De compensationibus.
- 18, 2 De in diem additione.
- 18, 3 De lege commissoria.
- 18, 5 De rescind. venditione.
- 19, 5 De praescriptis verbis et in factum action.
- 22, 1 De usuris et fructibus . . . et mora.
- 43, 25 De remissionibus.
- 44, 4 De doli mali et metus, etc.
- 44, 7 De obligationibus, etc.
- 45, 2 De duobus constituendis.

OBLIGATIONS; PRINCIPLES OF CONTRACTS 159

- 46, 2 De novation. et delegation.
- 46, 3 De solutionibus et liberation.
- 46, 4 De acceptilationibus.
- 46, 7 Judicatum solvi.
- 46, 8 Ratam rem habere et de ratihabitione.
- 50, 16 De verborum significatione.
- CODE, 2, 3 De pactis.
- 2, 4 De transactionibus.
- 2, 5 De calculi errore.
- 2, 13 Ne liceat . . . actiones transferre.
- 2, 19 (20) De his quae vi metusve causa, etc.
- 2, 20 (21) De dolo malo.
- 2, 31 (32) Si adv. transactionem minor restitui velit.
- 2, 32 (33) Si adv. solutionem, etc.
- 2, 45 (46) Si major factus raturum habuerit.
- 2, 55 (56) De receptis.
- 2, 56 (57) De satisfaciendo.
- 3, 9 De litis contestatione.
- 3, 18 . . . qui certo loco dare promisit.
- 3, 42 Ad exhibendum.
- 4, 6 De condictione ob causam datorum.
- 4, 7 De condictione ob turpem causam.
- 4, 9 De condictione ex lege et sine . . . vel in-^(§1002) justa causa.
- 4, 10 De obligationibus, etc.
- 4, 11 Ut actiones et ab herede et contra heredem incipiant.
- 4, 15 Quando fiscus vel privat. debitor sin debitores exigere potest.
- 4, 17 Ex delictis defunctorum in quantum heredes conveniantur.
- 4, 22 Plus valere quod agitur, etc.
- 4, 27 Per quas personas acquir.
- 4, 31 De compensationibus.
- 4, 44 De rescind. venditione.
- 6, 38 De verb. et rerum significatione.
- 7, 26 De . . . transactione.
- 7, 40 De annali exceptione Italici contractus tollenda et de diversis temporibus . . . et praescriptionibus, etc.
- 7, 71 De bonis cedere possunt.
- 8, 38 (39) De inutilibus stipulation.
- 8, 39 (40) De duobus reis stipulandi et . . . promittendi.
- 8, 41 (42) De novation. et delegation.

- (§ 1002) — 8, 42 (43) De solutionibus et liberation.
 — 8, 43 (44) De acceptilationibus.
 — 11, 40 (39) De solutionibus et liberation., etc.
 — 11, 57 (56) Ut nullus ex vicinis pro alienis debitis vicinorum teneatur.
 Nov. 4 De . . . solutionibus.
 — 73 De instrumentorum . . . scriptis . . . et de ex non scripto contractibus, etc.
 — 99 De reis promittendis.
- (c) **Post-Justinian :**
- THEOPHILUS, i, 21, to § 1; ii, 2; iii, titles 13, 15 16, 19, 24 § 6, 28, 29, to § 5; iv, title 6, §§ 30 and 39, title 12 (for full titles of these, see supra "b", INST.).
- ECLOGA, 15 De transactionibus validis aut rescissis.
- PROCHIRON, 37 De tempore quo creditores adv. heredes, etc.
- EPANAGOGA, 27 De transactione.
 — 35, De temporibus quibus creditores adv. heredes defuncti, etc.
- BAS. 2, 2 De verborum significatione.
 — 7, 2 De sententia arbitrorum et iudicum compromissariorum.
 — 10, 14 Si adv. transactionem vel divisionem minor restitui velit.
 — 10, 15 Si adv. solutionem a debitore, etc.
 — 10, 20 Si adv. creditorem.
 — 10, 28 Si major factus ratum habuerit.
 — 11, 1 De pactis vel conventionibus.
 — 11, 2 De transactione.
 — 19, 18 De monopolis et de conventu . . . illicito, etc.
 — 24, 1 De conditione causa data, causa non data.
 — 24, 2 De conditione ob turpem vel injustam causam.
 — 24, 3 De conditione ex lege, ex sine causa vel injusta causa, et de obligationibus, etc.
 — 24, 4 Ne uxor pro marito, vel maritus pro uxore, vel mater pro filio, vel filius pro patre, vel pater pro filio emancipato, vel libertus pro patrono teneantur.
 — 24, 6 De eo, qui indebitum solvit, et solutum repetit.
 — 24, 8 De eo, quod solutum et sine causa, etc.
 — 24, 9 De eo, quod certo loco dari oportet.
 — 24, 10 De compensatione.

- 26, 3 De . . . duobus reis promittendis et de his qui solverunt.
- 26, 4 De novatione sivi translatione debiti, etc.
- 26, 5 De solutionibus et liberation.
- 26, 6 De liberation. sive acceptilatione, etc.
- 43, 2 De duobus reis constituendis.
- 43, 6 De contractu interposita stipulatione.
- 44, 16 De liberatione legata, et de falsa causa solutionis, etc.
- 50, 15 De annali exceptione Italici contractus tollenda et de diversis temporibus . . . et praescriptionibus, etc.
- 51, 6 Quorum rerum actio non datur.
- 52, 1 De obligationibus, etc.
- 54, 13 De pollicitationibus.
- 54, 36 De solutionibus et liberation., etc.
- HEXABIBLOS, 1, 3 De actionibus et temporibus.
- 1, 4 De judiciali sententia et re judicata.
- 1, 9 De pactis.
- 1, 10 De transactione.
- 1, 11 De necessitate et vi.
- 1, 15 De obscuro et ambiguo.
- 1, 16 De militibus. (§ 1002)
- 5, 13 Quo tempore creditores adv. defuncti heredes agere possunt.
- (appendix, title 3), De significatione verborum.
- II. Modern references:—**
- (a) **In general:**
- AMOS, Roman law, pp. 132-46, 169-257,
- Specific performance in French law, 17 Law Quart. Rev., p. 372.
- AUDIBERT, Sur les différents noms de l'action praescriptis verbis (Mélanges Gérardin, pp. 21-42, Paris, 1907).
- AUSTIN, Jurisprudence³, vol. i, pp. 13-27, 367-516; vol. ii, pp. 939-44.
- BALLANTINE, Is the doctrine of consideration senseless and illogical? 33 Canadian Law Times, p. 412 (1913).
- BERTOLINI, Appunti didattici di diritto romano, 4 vols., Turin, 1905.
- Della transazione secondo il diritto romano, Turin, 1900.
- BRISSAUD (Howell), Hist. of French private law, pp. 450-620, Boston, 1912.
- BUCKLER, The origin and history of contract in Roman law down to the end of the Republican period, London, 1895.

- (§1002) CIVIL LAW, Misunderstandings of the, 6 *Am. Law Rev.*, p. 37.
- COLQUHOUN, Roman law, §§ 1502-1979.
- CORNIL, Debitum et obligatio, *Recherches sur la formation de la notion de l'obligation romaine* (Mélanges P. F. Girard, vol. i, pp. 199-263, Paris, 1912).
- DEFLERS, Des obligations divisibles et indivisibles en droit rom. et en droit français, Paris, 1863.
- DRAKE, Consideration vs. causa in Roman-American law, 4 *Mich. Law Rev.*, p. 19.
- DUMAS, Les origines romaines de l'article 1150 du code civil (Études d'histoire juridique off. à P. F. Girard, vol. ii, pp. 95-124, Paris, 1913).
- ELLIS *v.* CRAIG, 7 *Johns. Chancery* (N. Y.), 7.
- EISELE, Die Compensation nach röm. u. gem. Rechts. (1867).
- FITTING, Correalobligationen, Erlangen, 1859.
- FOULKE, Mistake in the formation of a contract, 11 *Columbia Law Rev.*, pp. 197, 299.
- GERTH, Der Begriff des Vis Major im röm. u. Reichs-Rechts. (1890).
- GIRARD, Droit romain⁵, pp. 387-792.
- GRADENWITZ, Ungültigkeit Obligatoris, etc., Berlin, 1887.
- GRUEBER, Difficulty in the doctrine of consideration, 2 *Law Quart. Rev.*, p. 33.
- GWYNNE, Consideration and motive as essentials to a binding agreement, 33 *Canadian Law Times*, p. 600.
- HOWE, Civil Law², pp. 198-309.
- HUNT, Accord and satisfaction, compromise, composition at Common Law, Boston, 1913.
- HUNTER, Roman law⁴, pp. 146-56, 166, 325-31, 459-665.
- LABORDERIE, Critique de la théorie de Dumoulin sur les obligations indivisibles, 36 *Revue gén. du droit*, pp. 113-23.
- LAROMBIÈRE, Théorie et pratique des obligations, 5 vols., Paris, 1867.
- LEE, Cause and consideration in the Quebec Civil Code, 25 *Yale Law Journal*, p. 536.
- LEPELLETIER, De la transaction en droit rom. et en droit français, Paris, 1890.
- LUCHET, Logique de l'obligation, etc., 32 *Revue gén. du droit*, pp. 421-44.

OBLIGATIONS; PRINCIPLES OF CONTRACTS 163

- MACKELDEY (Dropsie), Roman law¹⁴, §§ 10-11, 346-546.
- MASSOL, De l'obligation naturelle en droit rom. et en droit français, Paris, 1858.
- MAYNZ, Obligations en droit romain, Paris, 1859.
- MEYNIEL, Des conditions requises au Moyen Age pour l'application de la rescission de la vente pour lésion d'outre-moitié (Mélanges P. F. Girard, vol. ii, pp. 201-24, Paris, 1912).
- MILHAND, Droit romain des actes apparents et simulés, droit français, etc., Paris, 1889.
- MOREY, Roman law, pp. 341-84.
- MOYLE, Roman law, vol. i, 5th ed., pp. 345, 391, 418, 461, 476, 503.
- PATURINI, Pactes et contrats, 37 *Revue gén. du droit*, p. 507; 38 *Id.*, p. 27.
- PETERSON, Evolution of causa in the contractual obligations of the Civil Law, *Bulletin of Univ. of Texas*, no. 46, Jan. 1, 1905.
- PETIT, Droit romain⁷, §§ 262-530.
- POLLOCK, Contracts in early English law, 6 *Harvard Law Rev.*, p. 389.
- POSTE, Gaius⁴, pp. 315-441, 511-13.
- POTHIER, *Traité des obligations*² (Bugnet), Paris, 1861.
- (Evans, transl.), *Obligations*, 2 vols., Philadelphia, 1826.
- RABEL, Origine de la règle "impossibilium nulla obligatio" (Mélanges Gérardin, pp. 473-512, Paris, 1907).
- RALSTON, Prescription, 4 *Am. Journal of Internat. Law*, p. 133.
- ROBY, Private law, pp. 2-310.
- ROMAN-DUTCH law, The Common Law doctrine of consideration and the, 20 *Law Quart. Rev.*, pp. 235, 349.
- Nudum pactum in, 9 *Journal Soc. Compar. Leg.*, pp. 84-9 (Aug. 1908).
- SALMOND, History of contract, 3 *Law Quart. Rev.*, p. 166.
- SARDATTI, I contratti nel diritto inglese in rapporto al diritto italiano, Rome, 1912.
- SAVIGNY, Das Obligationenrecht, 2 vols., Berlin, 1851-1853 (especially vol. i, §§ 2-39; vol. ii, §§ 40-81).
- (Gérardin and Jozon, transl.), *Le droit des obligations*², Paris, 1872-73.

- System, vol. iii, §§ 105, 113–40, and appendix viii; vol. v, §§ 231–5; vol. vii, §§ 310–14, 330–33; vol. viii, §§ 369–74, 381–8, 392, 397.
- SCHUSTER, German civil law, §§ 138–307.
- SOHM (Ledlie³), Roman law, pp. 358–447.
- TROLLEY, *La lésion en droit romain et en droit français*, Paris, 1871.
- VAN WETTER, *Les obligations en droit romain*, Ghent, 1886.
- WALTON, Roman law², pp. 190–204.¹
- WILLISTON, Dependency of mutual promises in the Civil Law, 13 Harvard Law Rev., pp. 80–109.
- (b) **Modern Codes:** —
- References are to the Civil Code, unless otherwise stated.
- ARGENTINA, 529–2321.
- AUSTRIA, 859–1502.
- CHILE, 1437–2524.
- FRANCE, 1101–2281.
- GERMANY, 241–853.
- ITALY, 1097–2147.
- JAPAN, 399–724.
- LOUISIANA, 1756–3555.
- MEXICO, 1272–3226.
- PHILIPPINES (same as Spain).
- PORTO RICO, 1055–1875.
- QUEBEC, 982–2612.
- RUSSIA, 1374–2334.
- SPAIN, 1088–1975.
- SWITZERLAND, Code of Obligations.
- III. See also supra vol. ii,** §§ 645–6 (prescription), 716–17 (bankruptcy), 724–51 (obligations and contracts), 857, 872 (civil procedure); supra vol. iii, § 998; infra §§ 1016, 1018.

§ 1003 **Contracts of loan (nexum, mutuum, maritime loan, and commodatum): references.**

- I. Texts of Roman law:** —
- For English translations, see supra §§ 945, 946, 948, 951, 952, 955.
- (a) **Ante-Justinian:**
- XII TABLES, viii, 18.
- GAIUS, iii, 91; iv, 116.
- PAULUS, Sent. 2, 4 De commodato, etc.
- 2, 10 De SC. Macedoniano.
- 2, 14 De usuris.
- COD. GREGORIAN. Ad SC. Macedonianum.
- COD. THEOD. 2, 33 De usuris.
- 4, 18 De fructibus, etc.
- 4, 19 De usuris rei judicatae.

¹ WALTON, Cause and consideration in contracts, 41 Law Quart. Rev., p. 306 (1925).

— 9, 11 De privati carceris custodia.

(b) **Justinian:**

INST. 3, 14 Quibus modis . . . obligatio., §§ 1-12.

— 4, 7 Quod cum eo qui in aliena potestate est negotium etc.

DIG. 12, 1 De rebus creditis, etc.

— 13, 6 Commodati vel contra.

— 22, 2 De nautico faenore.

— 43, 32 De migrando.

— 44, 7 De obligationibus, etc.

CODE, 2, 37 (38) Si adv. creditorem.

— 4, 23 De commodato.

— 4, 28 Ad SC. Macedonianum.

— 4, 30 De non numerata pecunia.

— 4, 32 De usuris.

— 4, 33 De nautico fenore.

— 5, 56 De usuris pupil.

— 6, 47 De usuris, etc.

— 7, 54 De usuris rei iudicatae.

— 9, 5 De privatis carceribus inhibendis.

— 10, 6 De his qui ex publicis rationibus mutuum pecuniam acceperunt.

— 10, 8 De fiscal. usuris.

Nov. 32 Ne quis mutuum . . . et quantam usuram, ab agricolis, etc.

— 33 Ut nullus mutuans. (§1003) agricolae, etc.

— 34 Nullum credentem agricolae . . . et quantam . . . usuram, etc.

— 73 De instrumentis . . . et . . . mutuo, etc.

— 106 De usuris nauticis.

— 110 De usuris nauticis.

— 121 Ut quae . . . fiunt usurarum, etc.

— 138 De usuris, etc.

(c) **Post-Justinian:**

THEOPHILUS iii, 14, §§ 1-2; iv, 7 (same titles as those of supra "b" INST.).

ECLOGA, 10 De mutuo, etc.

PROCHIRON, De mutuo, etc.

EPANAGOGA, De mutuo, etc.

BAS. 10, 5 De filiusfam. minor.

— 10, 6 De fidejussor. minorum.

— 13, 1 Commodati vel contra.

— 18, 4 De SC. Macedoniano, etc.

— 23, 1 De rebus creditis, etc.

— 23, 3 De usuris, etc.

— 38, 17 De usuris pupil.

— 52, 1 De obligationibus, etc.

— 53, 5 De creditis naval.

— 60, 55 Ut ne sint privati carceres.

HEXABIBLOS, 2, 2 De non numerata pecunia.

- 2, 10 De commodato, etc.
 — 3, 5 De mutuo, etc.
 — 3, 7 De usura.

II. Modern references: —

(a) In general:

- BELLOT and WILLIS, Law of unconscionable bargains, London, 1897.
 COGGS v. BERNARD, Lord Raymond's Rep. 909.
 FOSTER, Der Kreditauftrag . . . nach röm. u. neuem bürgerl. Rechte (1903).
 PACCHIONI, Nexum — impressioni e reminiscenze (Mélanges P. F. Girard, vol. ii, p. 319, Paris, 1912).
 VAINBERG, Le nexum et la contrainte par corps en droit romain, Paris, 1874.
 ZULUETA, The recent controversy about nexum, 29 Law Quart. Rev., p. 137; 33 Canadian Law Times, p. 863.

(b) Modern codes:

References are to the Civil Code, unless otherwise stated.

ARGENTINA, 2274-2321; code of Commerce, 558-71, 1110-54.

AUSTRIA, 971-1001.

CHILE, 2174-3310; code of Commerce, 795-806, 1168-1215.

FRANCE, 1874-1914; code of Commerce, 311-31.

GERMANY, 598-610; code of Commerce, 354.

ITALY, 1805-34; code of Commerce, 590-603.

JAPAN, 587-600.

LOUISIANA, 2891-2925.

MEXICO, 2661-2700; code of Commerce, 357-70, 794-811.

PHILIPPINES (same as Spain).

PORTO RICO, 1642-59.

QUEBEC, 1762-86.

RUSSIA, 2012-99.

SPAIN, 1740-57; code of Commerce 311-25, 719-36.

SWITZERLAND, code of Obligations, 305-18.

III. See also supra § 1002; vol. ii, §§ 754-7.

§ 1004 Depositum: references.

I. Texts of Roman law: —

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

XII Tables, viii, 19.

PAULUS, Sent. 2, 4 De . . . et deposito.

— 2, 12 De deposito.
 COD. GREGORIAN. 4 De deposito.
 COD. THEOD. 2, 28 De pecuniae sequestratione prohibita.
 COLL. MOSAIC. ET ROM. 10 De deposito.

(b) **Justinian:**

INST. 3, 14 Quibus modis . . . obligatio, § 3.
 DIG. 43, 32 De migrando.
 — 44, 7 De obligationibus, etc.
 CODE, 4, 4 De prohibita sequestratione pecuniae.
 — 4, 34 Depositum.
 NOV. 73, De instrumentorum . . . et . . . de deposito, etc.
 — 88 De deposito, etc.

(c) **Post-Justinian:**

THEOPHILUS, 3, 14 Quibus modis . . . obligatio, § 3
 ECLOGA, 11 De deposito.
 PROCHIRON, 18 De deposito.
 EPANAGOGA, 25 De deposito.
 BAS. 13, 2 De deposito.
 HEXABIBLOS, 3, 9 De deposito.

II. Modern references:—

(a) **In general:**

COGGS v. BERNARD, Lord Raymond's Rep. 909.

SAVIGNY, Das Recht des Besitzes⁷, § 25.

(b) **Modern Codes:**

References are to the Civil Code, unless otherwise stated:

ARGENTINA, 2216-73; code of Commerce, 562-79.

AUSTRIA, 957-70.

CHILE, 2211-57; code of Commerce, 807-12.

FRANCE, 1915-63.

GERMANY, 688-700; code of Commerce, 415-23.

ITALY, 1835-77; code of Commerce, 461-79.

JAPAN, 657-66; code of Commerce, 353-83.

LOUISIANA, 2926-83.

MEXICO, 2545-93; code of Commerce, 332-57.

PHILIPPINES (same as Spain).

PORTO RICO, 1660-91.

QUEBEC, 1794-1829.

RUSSIA, 2100-25.

SPAIN, 1758-89; code of Commerce, 303-10.

SWITZERLAND, code of Obligations, 253-304.

III. See also supra § 1002; vol. ii, § 758.

§ 1005 **Pledge (pignus, vadium): references.** The subject of pledge is covered bibliographically under supra § 993 (personal, praedial, and praetorian servitudes, C, 2: Fiducia, pignus, hypotheca, etc.). To the list of modern references should be added:

DENIS, Treatise on the law of the contract of pledge as governed both by the Common Law and the Civil Law (1898).

PAPPULIAS, Das Pfandrecht nach dem griechisch. u. röm. Rechts. (1909).

SEE also, vol. ii, § 759.

§ 1006 **Exchange: references.**

I. Texts of Roman law: —

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

GAIUS, 3, 141.

(b) Justinian:

INST. 3, 23 De emptione et venditione, § 2.

DIG. 12, 4 De conduct. causa data, etc., 16.

— 19, 3, De aestimatoria, 1, pr.

— 19, 4 De rerum permutatione.

— 19, 5 De praescriptis verbis, etc., 5, § 1.

CODE, 4, 64 De rerum permutatione,

NOV. 7 De non etc. . . . permutationis ecclesiasticis. rebus, etc.

(c) Post-Justinian:

THEOPHILUS, 3, 23 De emptione et venditione, § 2.

BAS. 20, 3 De permutatione.

II. Modern references: —

(a) Modern Codes:

References are to the Civil Code, unless otherwise stated.

ARGENTINA, 1519–26.

AUSTRIA, 1045–62.

CHILE, 1897–1900; code of Commerce, 161.

FRANCE, 1702–7.

GERMANY, 515.

ITALY, 1549–55.

JAPAN, 586.

LOUISIANA, 2660–67.

MEXICO, 2930–35.

PHILIPPINES (same as Spain).

PORTO RICO, 1441–4.

QUEBEC, 1596–9.

RUSSIA, 1374–80.

SPAIN, 1538–41.

SWITZERLAND, code of Obligations, 237–8.

III. See also supra § 1002; vol. ii, § 761.

Stipulation (stipulatio): references.

§ 1007

I. Texts of Roman law:—

For English translations, see
supra §§ 945, 948, 951, 952,
955.

(a) Ante-Justinian:

GAIUS, iii, 92-114.

PAULUS, Sent. 2, 3 De con-
tractibus.

— 5, 7 De obligationibus.

— 5, 9 De stipulationibus.

COD. GREGORIAN. 12 De duo-
bus reis stipulandi, etc.

VATICAN FRAG. 317-41, De
cognitoribus, etc.

(b) Justinian:

INST. 3, 15 De verborum ob-
ligatione.

— 3, 16 De duobus reis
stipulandi, etc.

— 3, 17 De stipulatione
servorum.

— 3, 18 De divisione stipu-
lationum.

— 3, 19 De inutil. stipula-
tion.

DIG. 44, 7 De obligationibus,
etc.

— 45, 1 De verborum obli-
gation.

— 45, 2 De duobus consti-
tuendis.

— 45, 3 De stipulatione
servorum.

— 46, 4 De acceptilatione.

— 46, 5 De stipulation.
praetoriis.

— 46, 6 Rem pupilli . . .
salvam fore.

— 46, 7 Judicatum solvi.

— 46, 8 Ratam rem haberi,
etc.

— 50, 16 De verborum
signif., 7.

CODE, 8, 37 (38) De contra-
henda stipulation.

— 8, 38 (39) De inutil. stip-
ulation.

— 8, 39 (40) De duobus
stipulandi, etc.

— 8, 43 (44) De acceptila-
tionibus.

NOV. 99 De reis promittend.

(c) Post-Justinian:

THEOPHILUS, iii, 15-19 (same
titles as supra "b", INST.).

BAS. 26, 6 De . . . acceptila-
tione, etc.

— 43, 1 De verborum obli-
gation.

— 43, 2 De duobus reis
constituendis.

— 43, 3 De stipulation.
servorum.

— 43, 4 De praetoriis stipu-
lation.

— 43, 5 De litigiosis.

— 43, 6 De contractu inter-
posita stipulatione.

— 52, 1 De obligationibus,
etc.

II. Modern references:

COLLINET, *Le rôle primitif de la stipulation* (Mélanges Gérardin, p. 75, Paris, 1907).
HAZELTINE, *The formal con-*

tract of early English law, 10 *Columbia Law Rev.*, p. 608.

III. See also *supra* § 1002; vol. ii, § 767.

§ 1008 Suretyship: references:**I. Texts of Roman law:—**

For English translations, see *supra* §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

GAIUS, 3, 115–27.

PAULUS, *Sent.* 1, 20 *De fidejussore*, etc.

— 2, 2 *De pecunia constituta*.

— 2, 11 *Ad SC. Velleianum*.

— 5, 10 *De contrahenda auctoritate*.

COD. GREGORIAN. 4 *Si debito persoluto*, etc.

— 12, *De sponsor. et fidejussor*.

COD. HERMOGENIAN. *De cautata . . . pecunia*.

COD. THEOD. 2, 13 *De actionibus ad potentes*, etc.

— 3, 15 *De fidejussor. dotium*.

— 10, 5 *Qui . . . fidejussores*, etc.

— 12, 11 *De curator. kalendarii et fidejussor. eorum*.

NOV. VALENTINIAN. 12 *De . . . fidejussor.*, etc.

(b) Justinian:

INST. 3, 20 *De fidejussor*.

— 4, 6 *De action.*, §§ 8–9.

DIG. 13, 5 *De pecunia constituta*.

— 16, 1 *Ad SC. Velleianum*.

— 27, 7 *De fidejussor.*, etc.

— 46, 1 *De fidejussor. et mandator*.

— 50, 16 *De verb. signif.* 7.

CODE, 2, 23 (24) *De fidejussor.*, etc.

— 4, 18 *De constituta pecunia*.

— 4, 29 *Ad SC. Velleianum*.

— 8, 40 (41) *De fidejussor. et mandator*.

NOV. 4 *De fidejussor. et mandator.*, etc.

— 99 *De reis promittendi*.

(c) Post-Justinian:

THEOPHILUS, 3, 20 *De fidejussor*.

— 4, 6 *De action.* §§ 8–9.

BAS. 9, 10 *Cautio judicati*, etc.

— 9, 11 *De satisfatione ratam rem haberi*.

— 10, 6 *De fidejussor.*, etc.

— 26, 1 De fidejussor. et mandator.

— 26, 2 Ut creditores . . . mandatores vel pecuniae constitutae reos, vel fidejussores.

— 26, 3 De constituta pecunia, etc.

— 26, 7 De constituta pecunia et SC. Velleiano.

HEXABIBLOS, 1, 13 De mulieribus.

— 3, 6 De fidejussor. et pecuniae constitutae reis.

II. Modern references:—

(a) In general:

APPLETON, *Nouvelles observations sur la loi Furia de sponsu* (in *Mélanges Gérardin*, p. 1, Paris, 1907).

LEVY, *Sponsio, fidepromissio, fidejussio*, Berlin, 1907.

TOURTOULON, *Le Velléien chez les Glossateurs* (in *Études de l'hist. jurid. off.* à P. F. Girard, vol. i, p. 417, Paris, 1913).

ZOCCO-ROSA, *Origin of sponsio*, 18 *Law Quart. Rev.*, p. 346.

(b) Modern Codes:

References are to the Civil Code, unless otherwise stated.

ARGENTINA, 2020–84; code of Commerce, 478–83.

AUSTRIA, 1346–74.

CHILE, 2335–83; code of Commerce, 820–21.

FRANCE, 2011–43.

GERMANY, 765–78.

ITALY, 1898–1931.

JAPAN, 446–65.

LOUISIANA, 3035–70.

MEXICO, 1700–72.

PHILIPPINES, same as Spain.

PORTO RICO, 1723–57.

QUEBEC, 1185–6, 1199, 1929–65.

RUSSIA, 1555–72.

SPAIN, 1822–56; code of Commerce, 439–42.

SWITZERLAND, code of Obligations, 492–512.

III. See also *supra* §§ 1002, 1007, and *infra* 1009 (*cautio*); *supra* vol. ii, §§ 768–72.

Literal contracts (*expensilatio*, *chirographum*, *syngrapha*, § 1009 *cautio*): references.

I. Texts of Roman law:—

For English translations, see *supra* §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

GAIUS, 3, 128–34.

COD. HERMOGENIAN. De *cauta et non numerata pecunia*.

COD. THEOD. 2, 4 De denuntiatione, etc., 6.

— 2, 27 Si certum petatur de chirografis.

(b) **Justinian:**

INST. 3, 21 De litterarum obligatio.

— 4, 13 De exception., § 2.

DIG. 44, 7 De obligation., etc.

NOV. 100 De tempore non solutae pecuniae, etc.

(c) **Post-Justinian:**

THEOPHILUS, 3 21 De litterarum obligatio.

— 4, 13 De exception., § 2.

BAS. 9, 10 Cautio judicati, etc.

II. Modern references:—

CAUTIO judicatum solvi in

French law, 135 *Law Times*, p. 96.

DUQUESNE, Contribution à l'étude de la cautio judicatum solvi (in *Mélanges Gérardin*, p. 197, Paris, 1907).

KRUEGER, Die Cautio Muciana (in *Mélanges P. F. Girard*, vol. ii. p. 1, Paris, 1912).

LABORDERIE, Quelques notes sur la cautio dans la pratique romain au temps classiques, 33 *Rev. gén. du droit*, p. 439.

III. See also supra §§ 1002, 1008; vol. ii, §§ 776–8.

§ 1010 **Sale: references.**

I. Texts of Roman law:—

For English translations, see supra §§ 945, 947, 951, 952, 955.

(a) **Ante-Justinian:**

XII TABLES, xii, 1.

GAIUS, iii, 135–7, 139–47.

PAULUS, Sent. 2, 17 Ex empto et vendito.

COD. GREGORIAN. 3 Si sub alterius nomine res emptā erit.

COD. THEOD. 3, 1 De contrahenda emptione.

— 3, 4 De aediliciis actionibus.

NOV. THEOD. 19 De rescind. vendition., etc.

NOV. VALENTINIAN. 5 De pantapolis ad urbem Romanam, etc.

— 32 De confirm. his quae administrantibus . . . distracta, etc.

VATICAN FRAG. 1–40 Ex empto et vendito.

(b) **Justinian:**

INST. 2, 1 De rerum divisione, §§ 40–46.

— 3, 22 De consensu obligatione.

- 3, 23 De emptione et venditione.
- DIG. 18, 1 De contrahenda emptione et de pactis.
- 18, 4 De hereditate vel actione vendita.
- 18, 5 De rescind. venditione.
- 18, 6 De periculo et commodo rei venditae.
- 19, 1 De actionibus empti venditi.
- 21, 1 De aedilicio edicto et redhibitione et quanti minoris.
- 21, 2 De eviction., etc.
- 21, 3 De exceptione rei venditae et traditae.
- 41, 4 Pro emptore.
- 42, 5 De rebus auctoritate iudicis . . . vendundis.
- 42, 8 Quae in fraudem creditorum facta, etc.
- 44, 6 De litigiosis.
- CODE, 2, 27 (28) Si adversus venditionem.
- 2, 54 (55) Se alienation. iudicii mutandi causa facta.
- 4, 36 Si servus se emi mandaverit.
- 4, 38 De contrahenda emptione.
- 4, 39 De hereditate vel actione vendita.
- 4, 40 Quae res venire non possunt et qui vendere vel emere vetantur.
- 4, 41 Quae res exportari (§ 1010) non debeant.
- 4, 44 De rescind. venditione.
- 4, 45 Quando liceat ab emptione discedere.
- 4, 46 Si propter publicas pensitationes venditio fuerit celebrata.
- 4, 47 Sine censu vel reliquis fundum comparari non posse.
- 4, 48 De periculo et commodo rei venditae.
- 4, 49 De actionibus empti et venditi.
- 4, 50 Si quis . . . sub alterius nomine . . . emerit.
- 4, 51 De rebus alienis non alienandis et de prohibita rer. alienatione, etc.
- 4, 52 De communium rerum alienatione.
- 4, 53 Rem alienam gerentibus, etc.
- 4, 54 De pactis inter emptor. et venditor.
- 4, 55 Si servus exportandus veneat.
- 4, 56 Si mancipium ita venerit, ne prostituatur.
- 4, 57 Si mancipium ita fuerit alienatum, ut manumittatur vel contra.
- 4, 58 De aediliciis actionibus.
- 4, 60 De nundinis.

- (§1010) — 4, 63 De commerciis et mercatoribus.
 — 7, 72 De bonis auctoritate judicis . . . venumdandis, etc.
 — 7, 75 De revocandis his quae per fraudem alienata sunt.
 — 8, 44 (45) De eviction.
 Nov. 7 De non alienandis . . . ecclesiasticis rebus, etc.
 — 40 Ut ecclesia . . . possit alienare habitacula, etc.
 — 46 De ecclesiastic. immobil. rerum alienatione, etc.
 — 65 Alienatione ecclesiae Mysiae relictarum pro captivorum redemptione, etc.
 — 85 De armis.
 — 120 De alienatione . . . in universis locis rerum sacrarum.
 CONST. DISPERSAE (in Appendix II to Nov.) 5 De metaxa.

(c) **Post-Justinian:**

- THEOPHILUS, 2, 1 De rer. divisione, §§ 40-46.
 — 3, 22 De obligationibus ex consensu.
 — 3, 23 De emtione et venditione.
 ECLOGA, 9 De venditione et emtione, etc.
 PROCHIRON, 14 De venditione et emptione.

EPANAGOGA, 23 De venditione et emptione.

BAS. 5, 2 De alienatione . . . rer. ecclesiastic.

— 9, 6 Quibus ex causis in possession., etc.

— 9, 7 De rebus auctoritate judicum . . . venumdandis.

— 10, 10 Si adv. venditionem.

— 19, 1 De contractu emtionis et venditionis, etc.

— 19, 2 Quando in emptione et venditione, etc.

— 19, 3 . . . cum . . . venditum sit, ut intra certum tempus pretium solveretur.

— 19, 4 De hereditate vel actione vendita.

— 19, 5 De rescind. emtione et venditione, etc.

— 19, 6 De periculo et commodo rei venditae.

— 19, 7 De servis exportandis, vel si ita mancipium venierit, ut manumittatur, etc.

— 19, 8 De actione emti et venditi, etc.

— 19, 9 De re, quae aestimata ad vendendum, etc.

— 19, 10 De edicto aedilicio, et de re redhibenda, et de rescind. venditione et minori pretio dato.

— 19, 11 De eviction. rei venditae, etc.

- 19, 12 De exceptione rei venditae et traditae.
- 19, 13 Si publicae administrationis nomine venditio celebrata fuerit.
- 19, 14 De fundo sine publicis tributis vel reliquis non comparando, etc.
- 19, 15 Si quis alteri, vel sub alterius nomine, vel aliena pecunia emerit.
- 19, 16 Rem alienam gerenti, etc.
- 19, 17 De ancilla ita vendita, ne prostituatur.
- 19, 19 De eviction., etc.
- 50, 4 Pro emptore.
- 53, 7 De emtione et venditioni vini.
- 54, 30 De vendendis rebus civitatis.
- 55, 5 Ne liceat habitatoribus metrocomiarum, etc.
- 55, 14 De cupressis ex luco Daphnensi vel Perseis per Aegyptum non . . . vendendis, etc.
- 56, 6 De fide et jure fisci, etc.
- 57, 9 De armis, etc.
- 60, 9 Si mensor falsum modum dixerit.
- HEXABIBLOS, 3, 3 De emtione venditione, etc.
- 28 South African Law Journal, p. 142.
- BENJAMIN, Sales of personal property (with reference to the English and American decisions, French Civil Code and Roman law), 6th American edition by Bennett (especially book i, part i, ch. iii, §§ 62; book ii, ch. vii, §§ 400-413), New York, 1892.
- BONNET, Le vendeur obligé de donner (in *Mélanges Gérardin*, p. 43, Paris, 1907).
- BOULARD, La vente dans les actes coptes (in *Études d'hist. jurid. off. à P. F. Girard*, vol. ii, p. 1, Paris, 1913).
- DICTA and promissa in the Civil Law and under the modern codes, 49 Canadian Law Journal, p. 687.
- MACKINTOSH, The Roman law of sale with modern illustrations², Edinburgh, 1907.
- MEYNIAL, Note sur la loi "Emptorum," Code, loc. cond. 4, 65, 9 (in *Mélanges Gérardin*, p. 413, Paris, 1907).
- Des conditions requises au Moyen-Âge pour l'application de la rescission de la vente pour lésion d'outre moitié (*Mélanges P. F. Girard*, vol. ii, p. 201, Paris, 1912).

II. Modern references:—

(a) In general:

ACTIO REDHIBITORIA
(modern cases and notes),

- MOYLE, *Contract of sale in Roman law*, Oxford, 1892.
- POTHIER (translated by Cushing), *Sale*, Boston, 1839.¹
- TROLLEY, *La lésion en droit romain et droit français*, Paris, 1871.
- VOET (translated by Berwick), *Commentary on the Pandects*, Book 13, title 7, books 18-21 (on purchase and sale, evictions, warranty), London, 1902.
- (translated by Wilson), *Contract of sale*, London, 1897.
- WILLISTON, *Sale in the Civil Law, the risk of loss after an executory contract of*, 9 *Harvard Law Rev.*, p. 72.
- (b) **Modern Codes:**
- ARGENTINA, 1357-1467, 2123-2215.
- AUSTRIA, 1053-89, 908-10, 922-33.
- CHILE, 1793-1896.
- FRANCE, 1582-1701; *code of Commerce*, 109.
- GERMANY, 433-515, 336-45; *code of Commerce*, 373-7.
- ITALY, 1447-1548; *code of Commerce*, 59-72.
- JAPAN, 555-85; *code of Commerce*, 286-90.
- LOUISIANA, 2438-2659.
- MEXICO, 2811-2929.
- PHILIPPINES (same as Spain).
- PORTO RICO, 1348-1440.
- QUEBEC, 1472-1595.
- RUSSIA, 1381-1527, 1679-90.
- SPAIN, 1445-1537.
- SWITZERLAND, *code of Obligations*, 184-236.

References are to the Civil Code, unless otherwise stated.

III. See also *supra* § 1002; vol. ii, §§ 780-91.

§ 1011 Letting and hiring: references.

I. Texts of Roman law:—

For English translations see *supra* §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

XII TABLES, xii, 1.

GAIUS, iii, 135-7, 142-7.

PAUL. Sent. 2, 18 De locato et conducto.

COD. THEOD. 5, 12 De

fundis patrimonial. . . . et eorum conductoribus.

— 10, 3 De locatione fundorum . . . et rei publicae et templorum.

— 10, 5 Qui conductores rei privatae.

(b) Justinian:

INST. 3, 24 De locatione et conductione.

¹ SHERMAN, Charles P., *Salient features of the Argentine law of sale*, 14 *Illinois Law Rev.*, p. 617.

— *Salient features of the Brazilian law of sale*, 42 *Canadian Law Times* n. 648.

DIG. 19, 2 Locati conducti.

— 21, 2 De eviction., etc.

— 43, 25 De remissionibus.

— 43, 26 De precario.

— 43, 32 De migrando.

CODE, 4 65 De locato et conducto.

— 8, 44 (45) De eviction.

— 11, 62 (61) De fundis patrimonial., etc.

— 11, 71 (70) De locatione praediorum civil. vel fiscal., etc.

— 11, 72 (71) De conductoribus . . . praediorum fiscal. et domus Augustae.

— 11, 73 (72) Quibus ad conductionem praediorum fiscal., etc.

(c) **Post-Justinian:**

THEOPHILUS, 3, 24 De locatione et conductione.

ECLOGA, 13 De conductione, etc.

PROCHIRON, 17 De locatione.

EPANAGOGA, 24 De locatione.

BAS. 19, 11 De eviction., etc.

— 19, 19 De eviction., etc.

— 20, 1 De actione locati et conducti.

— 20, 4 De actione praescriptis verbis.

— 53, 4 De nave . . . locata.

HEXABIBLOS, 3, 8 De locatione et conductione, etc.

II. Modern references:— (§ 1011)

(a) **In general:**

CIVIL LAW, misunderstandings of the, 6 Am. Law Rev., p. 37.

COGGS v. BERNARD, Lord Raymond's Rep. 909.

DESCHAMPS, Sur l'expression "locare operas" et le travail comme objet de contrat à Rome (Mélanges Gérardin, p. 157, Paris, 1907).

ESMEIN, Les baux perpétuels des formules d'Angers (in his Mélanges, p. 383, Paris, 1886).

— Les baux de cinq ans du droit romain (in his Mélanges, p. 219, Paris, 1886).

LONGO, Sulla natura nella "locatio conductio" (Mélanges P. F. Girard, vol. ii, p. 105, Paris, 1912).

MACDONELL, Classification of forms and contracts of labor in Roman law, Journal Soc. of Compar. Legisl. (1904).

MEYNIAL, Note sur la loi "Emptorum," Code, 4, 65, 9 (Mélanges Gérardin, p. 413, Paris, 1907).

(b) **Modern Codes:**

References are to the Civil Code, unless otherwise stated.

- ARGENTINA, 1527-1681; code of Commerce, 856-1017.
 AUSTRIA, 1090-1174, 970.
 CHILE, 1915-2013; code of Commerce, 166-232.
 FRANCE, 1708-1831; code of Commerce, 216-72.
 GERMANY, 535-80, 611-51; code of Commerce, 425-73, 556-663; Schuster, German law, pp. 257-301.
 ITALY, 1568-1696; code of Commerce, 388-416, 480-546.
 JAPAN, 601-42; code of Commerce, 331-52, 538-640.
 LOUISIANA, 2668-2800.
 MEXICO, 2434-2544, 2936-3065; code of Commerce, 626-726.
 PORTO RICO, 1445-1506.
 PHILIPPINES (same as Spain, Civil Code).
 QUEBEC, 1600-1700, 2389-2406, 2423-41, 2461-7.
 RUSSIA, 2201-90.
 SPAIN, 1542-1603; code of Commerce, 586-651.
 SWITZERLAND, code of Obligations, 253-304, 319-93. 440-57.
 III. See also *supra* § 1002, *infra* § 1013; *supra* vol. ii, §§ 792-4.

§ 1012 Partnership: references. .

I. Texts of Roman law:—

For English translations, see *supra* §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

GAIUS, iii, 135-7, 148-54.

PAUL. Sent., 2, 16 Pro socio.

(b) Justinian:

INST. 3, 25 De societate.

DIG. 17, 2 Pro socio.

CODE, 4, 37 Pro socio.

(c) Post-Justinian:

THEOPHILUS, 3, 25 De societate.

ECLOGA, 10 De . . . societate.

PROCHIRON, 19 De . . . societate.

— 20 De dissolutione societatis.

EPANAGOGA, 26 De societate.

BAS. 12 De societate, etc.

HEXABIBLOS, 3, 10 De societate.

— 3, 11 De dissolutione societatis.

II. Modern references:—

(a) In general:

BURDICK, Joint and several liability of partners, 11 Columbia Law Rev., p. 101.

CORBETT, Partnership in Roman and English law, 11 Law Mag. and Rev., p. 219.

CONSENSUAL CONTRACTS: PARTNERSHIP 179

SALVADORE, *Affectio societatis*, *Rivista di Diritto Civile* (1911).

(b) **Modern Codes:**

References are to the Civil Code, unless otherwise stated.

ARGENTINA, 1682-1822; code of Commerce, 282-312.

AUSTRIA, 1175-1216.

CHILE, 2053-2115; code of Commerce, 348-423.

FRANCE, 1832-73; code of Commerce, 18.

GERMANY, 705-40; code of Commerce, 110-69; Schuster, *German law*, pp. 302-10.

ITALY, 1697-1736; code of Commerce, 76-113.

JAPAN, 667-88; code of Commerce, 42-118, 235-54.

LOUISIANA, 2801-90.

MEXICO, 2219-2341; code of Commerce, 89-153.

PHILIPPINES (same as Spain, Civil Code).

PORTO RICO, 1567-1610.

QUEBEC, 1830-1900.

RUSSIA, 2126-98.

SPAIN, 1679-1708; code of Commerce, 116-50.

SWITZERLAND, code of Obligations, 530-611.

III. **See also** *supra* § 1002; vol. ii, §§ 795-9.

Agency: references.

§ 1013

I. **Texts of Roman law:—**

For English translations, see *supra* §§ 945, 946, 948, 951, 952, 955.

(a) **Ante-Justinian:**

GAIUS, iii, 135-7, 155-62; iv, 69-74.

PAUL. Sent. 1, 3 De procuratoribus.

— 2, 6 De exercitor. et institor.

— 2, 8 De institoribus.

— 2, 9 De in rem verso.

— 2, 15 De mandatis.

COD. GREGORIAN. 3 Quod cum eo qui aliena potestate est, negotium gestum, etc.

COD. THEOD. 2, 31 Quod jussu.

VATICAN FRAG. 317-41 De cognitor. et procurator.

(b) **Justinian:**

INST. 3, 26 De mandato.

— 4, 7 Quod cum eo in aliena potestate, negotium gestum, etc.

DIG. 14, 1 De exercitoria actione.

— 14, 3 De institoria actione.

— 14, 4 De tributaria actione.

— 15, 3 De in rem verso.

— 15, 4 Quod jussu.

(§1013) — 17, 1 Mandati vel contra.

— 46, 1 De fidejussor. et mandatoribus.

— 46, 8 Ratam rem haberi et de ratihabitione.

— 50, 14 De proxenetis.

CODE, 2, 12 (13) De procuratoribus.

— 4, 25 De exercitoria et institoria actione.

— 4, 26 Quod cum eo qui in aliena potestate negotium gestum . . . vel de peculio seu quod jussu aut de in rem verso.

— 4, 35 Mandati.

— 4, 36 Si servus se emi mandaverit.

— 8, 40 (41) De fidejussor. et mandatoribus.

— 11, 57 (56) Ut nullus ex vicanis pro alienis debitis vican. teneatur.

NOV. 4 De fidejussor. et mandatoribus, etc.

(c) **Post-Justinian :**

THEOPHILUS, 3, 26 De mandato.

— 4, 7 Quod cum eo qui in aliena potestate est, negotium gestum, etc.

BAS. 8, 2 De procuratoribus, etc.

— 9, 11 De . . . ratam rem haberi.

— 14, 1 De mandatis, etc.

— 18, 1 De actione . . . adv. eum qui aliquem tab-

ernae suae administrandae praeposuit.

— 18, 2 De actione . . . adv. dominum patremve, cum scientibus servus vel filiusfamilias mercatur, etc.

— 18, 3 De actione . . . adv. patrem vel dominum . . . cum iis, qui in potestate . . . cum aliis contrahentes . . . in peculio, etc.

— 18, 5 De actione de peculio, quae adv. patrem vel dominum, etc.

— 18, 6 . . . De peculio actiones, etc.

— 18, 7 De actione, quae de in rem domini vel patris verso, etc.

— 18, 8 De his, quae jussu domini vel patris quis contrahit, etc.

— 26, 1 De fidejussor. et mandatoribus.

— 26, 2 Ut creditores . . . convenient . . . mandatores vel pecuniae constitutae reos vel fidejussores.

— 53, 1 De patronis et exercitoribus, etc.

— 54, 15 De proxenetis.

II. Modern references :—

(a) **In general :**

COGGS *v.* BERNARD, Lord Raymond's Rep. 909.

- GAVET, *De l'allegatio gestis* (Mélanges P. F. Girard, vol. i, p. 499, Paris, 1912).
- LOUBERS, *L'action de in rem verso et les théories de la responsabilité civile*, Paris, 1912.
- RAMADIER, *La représentation des cités d'après l'édit du prêteur* (Études d'hist. jurid. off. à P. F. Girard, vol. i, p. 259 Paris, 1913).
- SAVIGNY, *Das Obligationenrecht*, vol. ii, §§ 54-60.
- WILLISTON, *Contracts for the benefit of a third person, in the Civil Law*, 16 Harv. Law Rev., p. 43.
- (b) **Modern Codes:**
- References are to the Civil Code, unless otherwise stated.
- ARGENTINA, 1903-2019; code of Commerce, 221-81.
- AUSTRIA, 1002-44.
- CHILE, 2116-73; code of Commerce, 233-347.
- FRANCE, 1984-2010; code of Commerce, 71-90.
- GERMANY, 652-6, 662-76; code of Commerce, 88, 383-405; Schuster, *German law*, pp. 278, 303.
- ITALY, 1737-63; code of Commerce, 349-87.
- JAPAN, 643-56; code of Commerce, 29-41, 305-30.
- LOUISIANA, 2985-3034.
- MEXICO, 2342-2433; code of Commerce, 273-331.
- PHILIPPINES (same as Spain, Civil Code).
- PORTO RICO, 1611-41.
- QUEBEC, 1701-61.
- RUSSIA, 2291-2334.
- SPAIN, 1709-39; code of Commerce, 88-115, 244-302.
- SWITZERLAND, code of Obligations, 394-406, 425-39, 458-65.
- III. See also supra §§ 1002, 1011; vol. ii, §§ 800-803.

Miscellaneous contracts: references.

§ 1014

I. Texts of Roman law:—

For English translations see supra §§ 945, 946, 948 951, 952, 955.

1. Affreightment.

(a) Ante-Justinian:

GAIUS, 4, 71.

COD. THEOD. 13, 5 *De naviculariis*, const. 9, 26, 29, 32-4.

(b) Justinian:

INST. 4, 7 *Quod cum eo qui in aliena potestate . . . gestum, etc.*, § 2.

(§1014) DIG. 14, 1 De exercitoria actione, frag. 1, § 15, frag. 7.
CODE. 11, 2 (1) De naviculariis, etc.

NOV. 106, De usuris nauticis.

(c) **Post-Justinian:**

THEOPHILUS, 4, 7 Quod . . . in aliena potestate, etc., § 2.

BAS. 53, 1 De . . . exercitoribus, etc.

HEXABIBLOS, 2, 11 De rebus nauticis.

2. Banks and banking.

(a) **Ante-Justinian:**

GAIUS, 3, 131.

(b) **Justinian:**

DIG. 1, 12 De officio praefecti urbi, 1, § 9.

— 2, 13 De edendo, frag. 4, pr., frag. 9, § 2, frag. 10, § 1.

— 2, 14 De pactis, frag. 9, 25, 27.

— 16, 3 Depositi, etc., 7, § 2.

— 42, 5 De rebus auctoritate judicis poss. seu vend., 24, § 2.

— 46, 3 De solutionibus, etc., 39.

NOV. 136 De argentariorum contractibus.

EDICTA (in Appendix I to NOV.), 7 Forma pragmatica de argentariorum contractibus.

— 9 De argentariorum contractibus.

(c) **Post-Justinian:**

BAS. 23, 4 De argentariorum contractibus.

3. Insurance.

DIG. 22, 2 De nautico faenore, 5.

— 35, 2 Ad legem Falcidiam, 68.

4. Pacts (pacta).

(a) **Ante-Justinian:**

COD. THEOD. 3, 13 De dotibus, 4.

VATICAN FRAG. 264a, 263, 310.

(b) **Justinian:**

INST. 2, 7 De donation., 2.

INST. 4, 6 De actionibus, 7-9.

DIG. 4, 8 De receptis, etc. frag. 11, § 3, frag. 13, § 1, frag. 27, § 7.

— 13, 5 De pecunia constituta.

— 13, 7 De pigneraticia actione, etc., 1.

— 20, 1 De pignoribus et hypothecis, etc., 4.

CODE, 4, 18 De pecunia constituta.

— 4, 29 Ad SC. Velleianum, 25.

— 5, 11 De dotis promissione, etc., 6.

— 8, 53 (54) De donation., 35, § 5b.

5. Public promises and vows
(*pollicitationes, vota*).

DIG. 50, 12 De *pollicitationibus*.

BAS. 54, 13 De *pollicitationibus*.

II. Modern references to all miscellaneous contracts:—

(a) **In general:**

PLATON, *Les banquiers dans la législation de Justinien*, Paris, 1912.

REGISTER, *Notes on commerce and commercial law*, 33 Canadian Law Times, p. 499.

SMITH, *Dictionary of Greek and Roman antiquities*³, "*argentarii*."

(b) **Modern Codes:**

References are to the Civil Code, unless otherwise stated.

ARGENTINA, code of Commerce, 492-557, 856-1260.

AUSTRIA, 1288-92.

CHILE, 2258; code of Com-

merce, 166-232, 512-601, 970-1083, 1261-1312.

FRANCE, 1964; code of Commerce, 273-310, 392-6.

GERMANY, code of Commerce, 781-897; Schuster, *German Civil Law*, pp. 312-13.

ITALY, 1951; code of Commerce, 417-53, 547-89, 604-41.

JAPAN, code of Commerce, 384-433, 590-640, 653-79.

LOUISIANA, 2755.

MEXICO, 2705-71; code of 392-448, 727-93, 812-80.

PHILIPPINES, same as Spain, Civil Code.

PORTO RICO, 1693-9, 1704-10.

QUEBEC, 1265, 2407-20, 2442-2593.

RUSSIA, 2199-2200.

SPAIN, 1791-7, 1802-7; code of Commerce, 380-438, 652-718, 737-805.

III. See also supra §§ 1002; vol. ii, §§ 804-8.

Quasi contracts: references.

§ 1015

I. Texts of Roman law:—

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

I. In general.

(b) **Justinian:**

INST. 3, 27 De *obligationibus quasi ex contractu*.

DIG. 44, 7 *obligationibus*, etc.

CODE, 3, 21 *Ubi agi oportet ratiociniis*, etc.

(c) **Post-Justinian:**

THEOPHILUS, 3, 27 De *obligationibus* . . . *quasi ex contractu*, etc.

¶1015) 2. **Unauthorized agency**
(*negotiorum gestio*).

(b) **Justinian:**

INST. 3, 27 De oblig. quasi
ex contractu, 1.

DIG. 3, 5 De negotiis gestis.

CODE, 2 18 (19) De negotiis
gestis.

(c) **Post-Justinian:**

THEOPHILUS, 3, 27 De oblig.
. . . quasi ex contractu,
etc., 1.

BAS. 17, 1 De negotia aliena
gerentibus.

— 17, 2 De actione qua
petuntur sumtus utiliter
facti.

3. **Money paid by mistake**
(*solutio indebiti, condictio
indebiti*).

(a) **Ante-Justinian:**

GAIUS, 3, 91.

(b) **Justinian:**

INST. 3, 14 Quibus modis re
. . . obligatio, 1.

— 3, 27 De oblig. quasi
ex contr., 6-7.

DIG. 12, 6 De condictione
indebiti.

— 22, 6 De juris et facti
ignorantia.

CODE, 1, 18 De juris et facti
ignorantia.

— 4, 5 De condictione in-
debiti.

(c) **Post-Justinian:**

THEOPHILUS, 3, 14 Quibus
modis re . . . obligatio, 1.

— 3, 27, De oblig. . . .
quasi ex contr., etc., 6-7.

BAS. 2, 4 De facti et juris
ignorantia.

— 24, 6 De eo qui in-
debitum solvit, etc.

4. **Jettison and general aver-**
age (*lex Rhodia de jactu*).

(a) **Ante-Justinian:**

PAULUS, Sent. 2, 7 Ad legem
Rhodiam.

(b) **Justinian:**

INST. 2, 1 De rerum divisione,
47-8.

DIG. 14, 2 De lege Rhodia de
jactu.

CODE, 11, 6 (5) De naufragiis.

(c) **Post-Justinian:**

THEOPHILUS, 2, 1 De rerum
divisione, 47-8.

BAS. 53, 3 De naufragio, etc.

— 53, 8 Capita excerpti juris
Rhodiorum navalis.

HEXABIBLOS, 2, 7. De . . .
naufragio, etc.

— 2, 11 De rebus nauticis.

II. **Modern references to all
quasi contracts:—**

(a) **In general:**

AMES, History of assumpsit,
4 Law Quart. Rev., 480,
Harv. Law Rev., April and
May, 1888.

- ASHBURNER, *The Rhodian sea law*, Oxford, 1909.
- AUSTIN, *Jurisprudence* ³, vol. ii, pp. 944-8.
- BARCLAY, *Definition of general average*, 7 *Law Quart. Rev.*, p. 22.
- BENEDICT, *The Rhodian law*, 18 *Yale Law Journal*, p. 242.
- COLUMBIAN INS.CO.v.ASHBY, 13 *Peters (U. S. Sup. Ct. Rep.)*, 331.
- DOWALL, *Codification of the law of general average*, 11 *Law Quart. Rev.*, p. 32.
- LOWNDE, *Law of general average* ⁵, London, 1912 (contains transl. of maritime codes of various nations).
- OSSIG, *Röm. Wasserrecht*, Leipzig, 1898.
- RUABON STEAMSHIP CO. v. LONDON ASSURANCE CO., *House of Lords Appeal Cases (1900)*, 1.
- SAVIGNY, *Obligationenrecht*, vol. ii, § 85.
- *System*, vol. iii, appendix viii.
- SCHOMBERG, *Treatise on the maritime laws of Rhodes*, London, 1786.¹
- (b) **Modern Codes:**
References are to the Civil Code, unless otherwise stated.
- ARGENTINA, 818-32, 2322-44; code of Commerce, 1283-1350.
- CHILE, 2284-2313; code of Commerce, 1150-67, 1084-1135.
- FRANCE, 1370-81; code of Commerce, 397-429.
- GERMANY, 677-87, 812-15; code of Commerce, 700-733; Schuster, *German Civil Law*, pp. 351, 361.
- ITALY, 1140-50; code of Commerce, 642-59.
- JAPAN, 697-708; code of Commerce, 641-52.
- LOUISIANA, 2292-2314, 3424.
- MEXICO, code of Commerce, 881-93, 915-44.
- PHILIPPINES, same as Spain, Civil Code.
- PORTO RICO, 1788-1802.
- QUEBEC, 983, 1041-52, 2551-67.
- SPAIN, 1887-1901; code of Commerce, 806-18, 840-69.
- SWITZERLAND, code of Obligations, 419-24.
- III. See also *supra* § 1002; vol. ii, §§ 809-12.

Torts or delicts: references.

§ 1016

- I. **Texts of Roman law:**— *supra* §§ 945, 946, 948, 951,
For English translations, see 952, 955.

¹ SHERMAN, Charles P., *Argentine and Chilean law as to money paid by mistake*, 6 *Georgetown Law Journal*, p. 8.

(§1016) 1. **General principles of delicts; and miscellaneous delicts.**

(a) **Ante-Justinian:**

XII TABLES, xii, 2.

GAIUS, iii, 182; iv, 75-81.

COD. HERMOGENIAN. Ex delictis defunctorum, etc.

COD. THEOD. 9, 20 Victum civiliter agere criminaliter posse.

(b) **Justinian:**

INST. 4, 1 De obligation. . . . ex delicto, etc., pr.

— 4, 8 De noxal. action.

DIG. 2, 9 Si ex noxal. causa, etc.

— 9, 4 De noxal. action.

— 44, 7 De obligation., etc.

— 47, 1 De privatis delictis.

CODE, 2, 16 (17) Ut nemini liceat sine iudicis auctoritate signa imprimere rebus, quas alius tenet.

— 2, 34 (35) Si adv. delictum suum.

— 3, 27 Quando liceat sine iudice . . . vindicare, etc.

— 3, 41 De noxal. action.

— 4, 17 Ex delictis defunctorum in quantum heredes convenientur.

— 11, 6 (5) De naufragiis.

(c) **Post-Justinian:**

THEOPHILUS, 4, 1 De obligation. . . . ex delicto, etc., pr.

— 4, 8 De noxal. action. BAS. 7, 15 Si dominus servum. . . ut noxae detur, etc.

— 10, 17 Si adv. delictum suum.

— 23, 2 Ne defuncti . . . a creditoribus injuria, etc.

— 24, 7 . . . in quantum heredes teneantur ex delictis defunctorum.

— 43, 7 De multis, quae ex condemnatione iudicis veniunt.

— 53, 2 De nave in jus vocata.

— 60, 1 De pecuniariis poenis, etc.

— 60, 5 . . . quadrupes noxae deduntur.

— 60, 11 De privatis delictis.

— 60, 51 De poenis.

HEXABIBLOS, 1, 3 De actionibus, etc.

— 2, 11 De rebus nauticis.

— 5, 13 Quo tempore creditores adv. defuncti heredes agere possint.

2. **Injury to the person (injuria).**

(a) **Ante-Justinian:**

XII TABLES, viii, 1-4.

GAIUS, iii, 220-25.

PAULUS, Sent. 5, 4 De injuriis.

ULPIAN, Reg. 29 De injuriis.

COLLATIO MOSAIC. ET ROM. 2 De atroci injuria.

(b) Justinian:

INST. 4, 4 De injuriis.

DIG. 9, 3 De his, qui effuderint vel dejecerint.

— 47, 10 De injuriis et famosis libellis.

CODE, 9, 35 De injuriis.

— 9, 36 De famosis libellis.

(c) Post-Justinian:

THEOPHILUS, 4, 4 De injuriis.

BAS. 60, 4 De his, qui quid effuderint vel dejecerint.

— 60, 21 De injuriis et famosis libellis.

— 60, 48 Lex Fabia de plagiariis.

3. Theft (furtum).**(a) Ante-Justinian:**

XII TABLES, viii, 12–17, 20.

GAIUS, iii, 182–208.

PAULUS, Sent. 2, 31 De furtis.

COLLATIO MOSAIC. ET ROM. 7 De furibus, etc.

(b) Justinian:

INST. 4, 1 De obligation. . . . ex delicto, §§ 1–19.

DIG. 13, 1 De condictione furtiva.

— 47, 2 De furtis.

— 47, 4 Si quis, qui testamento hereditatem subripuisse, etc.

— 47, 5 Furti adv. nautas, caupones, stabularios.

— 47, 6 Si familia furtum fecisse, etc.

— 47, 7 Arborum furtim (§ 1016) caesarum.

CODE, 4, 8 De condictione furtiva.

— 9, 39 De his qui latrones vel in aliis criminibus reos occultaverint.

(c) Post-Justinian:

THEOPHILUS, 4, 1 De obligation . . . ex delicto, §§ 1–19.

BAS. 53, 1 De . . . nautis, et cauponibus, etc.

— 60, 10 De condictione furtiva.

— 60, 11 De furto.

— 60, 14 De furto adv. caupones et stabularios.

— 60, 15 Si familia furtum fecisse, etc.

— 60, 20 De . . . ruina.

4. Robbery (rapina).**(a) Ante-Justinian:**

XII TABLES, viii, 12.

GAIUS, iv, 209.

PAULUS, Sent. 1, 14 De via publica.

— 5, 26 Ad legem Juliam de vi publica et privata.

NOV. VALENTINIAN. 8 De invasoribus.

(b) Justinian:

INST. 4, 2 Vi bonorum raptorum.

DIG. 43, 4 Ne vis fiat ei, qui in possessionem missus erit.

(§1016) — 43, 16 De vi et vi armata.

— 47, 8 Vi bonorum raptorum, etc.

— 48, 7 Ad legem Juliam de vi privata.

CODE, 8, 5 Si per vim . . . absentis perturbata possessio.

— 9, 12 Ad legem Juliam de vi publica seu privata.

— 9, 33 Vi bonorum raptorum.

— 9, 39 De his qui latrones vel in aliis criminibus reos occultaverint.

(c) **Post-Justinian:**

THEOPHILUS, 4, 2 De vi bonorum raptorum.

BAS. 51, 5 Ne vis fiat ei, qui in possession. missus, etc.

— 53, 3 De . . . rapina, etc.

— 58, 23 Quod vi aut clam.

— 60, 17 De bonis raptis, . . . et de vi armata.

— 60, 18 Ex lege Julia de vi publica et privata.

5. Damage to property (damnum injuria); lex Aquilia; negligence (culpa).

(a) **Ante-Justinian:**

XII TABLES, viii, §§ 5-16; ix, 9; x, 10.

GAIUS, iii, 210-19.

PAULUS, Sent. 1, 14 Si via publica.

— 1, 15 Si quadrupes damnum intulerit.

— 2, 23a (lex Aquilia).

(b) **Justinian:**

INST. 4, 3 De lege Aquilia.

— 4, 9 Si quadrupes pauperiem, etc.

DIG. 9, 1 Si quadrupes pauperiem, etc.

— 9, 2 Ad legem Aquiliam.

— 39, 2 De damno infecto et . . . projectionibus.

— 47, 7 Arborum furtim caesarum.

— 47, 8 Vi bonorum raptorum.

CODE, 3, 35 De lege Aquilia.

(c) **Post-Justinian:**

THEOPHILUS, 4, 3 De lege Aquilia.

— 4, 9 Si quadrupes pauperiem, etc.

BAS. 60, 2 Si quadrupes pauperiem, etc.

— 60, 3 De lege Aquilia.

— 60, 20 De . . . ruina.

HEXABIBLOS, 6 1 De damno.

— leges agrariae, 4 De quadrupedem deprædatione.

— leges agrariae, 5 de damno.

— leges agrariae, 6 de caedibus quadrupedum.

6. Fraud (dolus, fraus).

(a) **Ante-Justinian:**

XII TABLES, viii, 19.

PAULUS, Sent. 1, 7 De integri restitutione.

— 1, 8 De dolo.

COD. GREGORIAN. 3 Si major,
etc.

COD. THEOD. 2, 14 De his,
qui potentiorum nomina in
lite praetendunt, etc.

— 2, 15 De dolo malo.

(b) **Justinian:**

DIG. 4, 3 De dolo malo.

— 11, 6 Si mensor falsum
modum dixerit.

— 42, 8 Quae in fraudem
creditorum facta sunt,
etc.

— 43, 5 De tabulis exhi-
bendis.

— 43, 29 De homine libero
exhibendo.

— 43, 30 De liberis ex-
hibendis.

— 44, 4 De doli mali . . .
exceptione.

CODE, 2, 20 (21) De dolo
malo.

— 7, 75 De revocandis his
quae per fraudem alienata,
etc.

(c) **Post-Justinian:**

BAS. 9, 8 Quae in fraudem
creditorum facta, etc.

— 10, 3 De dolo malo.

— 31, 8 Si mulier ventris
nomine, etc.

— 51, 4 De doli mali . . .
exceptione.

— 60, 9 Si mensor falsum
modum dixerit.

7. **Intimidation (metus, vis).** (§ 1016)

(a) **Ante-Justinian:**

PAULUS, Sent. 1, 7 De inte-
gri restitutione.

COD. GREGORIAN. 2 De his
quae vi metusve causa,
etc.

(b) **Justinian:**

DIG. 4, 2 Quod metus causa,
etc.

— 44, 4 De . . . metus ex-
ceptione.

CODE, 2, 19 (20) De his qui vi
metusve causa, etc.

(c) **Post-Justinian:**

BAS. 10, 2 Quod metus causa,
etc.

— 51, 4 De . . . metus ex-
ceptione.

HEXABIBLOS, 1, 11 De neces-
sitate et vi.

II. **Modern references (all
torts or delicts):—**

(a) **In general:**

DE VILLIERS, Malice in the
English and Roman law of
defamation, 17 Law Quart.
Rev., p. 388.

— Nuisances in Roman
law, 13 Law Quart. Rev.,
p. 387.

DE WITT, Position of the law
of torts in the Spanish
system, 6 Mich. Law Rev.,
p. 137.

- (§ 1016) ESMEIN, La poursuite du vol, etc. (Mélanges Esmein, p. 244, Paris, 1886).
- GIRARD, Les jurés de l'action d'injurés (Mélanges Gérardin, p. 255, Paris, 1907).
- GRIFFITH, Allen *v.* Flood, sidelights from Roman law (Journal of Compar. Legisl., 1899).
- GRUEBER, Roman law of damage to property — a commentary on the lex Aquilia, Oxford, 1886.
- Review of this book by Muirhead, 2 Law Quart. Rev., p. 379.
- HUVELIN, Sur un texte d'Alfenus Varus. — Dig. 9, 2, 52, 1 (Mélanges P. F. Girard, vol. i, p. 559, Paris, 1912).
- IHERING, Schuldmoment im röm. Privatrecht.
- (The above work has been translated into French by MEULENAERE), De la faute en droit privé, Paris, 1880.
- KENNILL *v.* ABBOTT, 4 Vesey sr., p. 802, 25 Eng. Ruling Cases, p. 480 (Fraud).
- LABORDERIE, Essai sur la répression civile du furtum — "condictio furtiva," 36 Rev. gén. de droit, p. 20.
- MONRO, Lex Aquilia, London, 1898.
- NABER, Ad noxalem injuriarum actionem (Mélanges Gérardin, p. 467, Paris, 1907).
- PACCHIONI, A disputed point in the lex Aquilia, 4 Law Quart. Rev., p. 178.
- PISSARD, Duci vel ferri jubere. La ductio jussu praetoris dans . . . les actions noxales (Études d'hist. jurid. off. à P. F. Girard, vol. i, p. 241, Paris, 1913).
- ROLIN, L'abordage, Paris, 1899.
- SAVIGNY, Obligationenrecht, vol. ii, §§ 82-4.
- SERAFINI, Fraudulent preference in Roman law (Mispoulet's review of this book in 4 Law Quart. Rev., p. 81).
- SKOTTOWE, Roman law of damage, 10 Law Mag. and Rev., p. 47.
- SLANDER and libel, 6 Am. Law Reg. and Rev., pp. 598, 599.
- VILLIERS, Roman and Roman-Dutch law of injuries (translation of book 47, title 10, of Voet's Commentaries), London, 1899.
- WALTON, Motive as an element in torts in the Common and in the Civil Law, 22 Harvard Law Rev., p. 501.

WARMÉ, *De l'action Paulienne en droit romain*, Paris 1880 (fraud).

(b) **Modern Codes:**

References are to the Civil Code, unless otherwise stated.

ARGENTINA, 1107-70; code of Commerce, 1261-73.

AUSTRIA, 1293-1341.

CHILE, 2314-34; code of Commerce, 1129-49.

FRANCE, 1370, 1382-6; code of Commerce, 407.

GERMANY, 823-53; code of Commerce, 734-9; Schuster, *German law*, p. 345.

ITALY, 1151-6; code of Commerce, 660-65.

JAPAN, 709-24; code of Commerce, 650-51.

LOUISIANA, 2292, 2315-24.

MEXICO, 1458-87; code of Commerce, 901-14.

PHILIPPINES (same as Spain, Civil Code).

PORTO RICO, 1803-11.

QUEBEC, 983, 1053-5.

RUSSIA, 609-89.

SPAIN, 1887, 1902-10; code of Commerce, 826-39.

SWITZERLAND, code of Obligations, 41-67.

III. See also *supra* §§ 986, 1002, *infra* § 1017; *supra* vol. ii, §§ 449, 813-32.

Quasi delicts (including the liability of carriers and of inn-keepers): references.

I. **Texts of Roman law:** —

For English translations, see *supra* §§ 945, 946, 948, 951, 952, 955.

(b) **Justinian:**

INST. 4, 5 *De obligation. . . . quasi ex delicto*, etc.

DIG. 4, 9 *Naute caupones*, etc.
— 5, 1 *De judiciis*, etc., frag. 15, § 1, frag. 16.

— 9, 2 *Ad legem Aquiliam*, 29, § 7.

— 9, 3 *De his, qui effuderint vel dejecerint*.

— 44, 7 *De obligation.*, etc., 5, §§ 4-6.

— 47, 5 *Furti adv. nautas, caupones*, etc.

— 47, 9 *De . . . naufragio*, etc.

CODE, 11, 2 (1) *De naviculariis*, etc.

(c) **Post-Justinian:**

THEOPHILUS, 4, 5 *De obligation. . . . quasi ex delicto*, etc.

BAS. 53, 1 *De . . . nautis et cauponibus*, etc.

- 53, 3 De . . . naufragio, etc.
 — 60, 4 De his qui quid effuderint vel dejecerint.
 — 60, 14 De furto adv. caupones, etc.

II. Modern references:—

(a) In general:

- AUSTIN, Jurisprudence³, vol. ii, pp. 944-8.
 COGGS v. BERNARD, Lord Raymond's Rep. 909.
 LANE v. COTTON, 12 Mod. Rep. 484, 4 Taunt. Rep. 628.
 MOORE, Carriers², New York, 1914.
 MORS. v. SLEW, T. Raymond's Rep. 220.
 NUGENT v. SMITH, 1 Com. Pleas Div. 423.
 SAVIGNY, Obligationenrecht, vol. ii, § 85.

(b) Modern Codes:

References are to the Civil Code, unless otherwise stated.

ARGENTINA, 1107-70, 1623-5, 2229-37.

AUSTRIA, 970, 1293-1341.

CHILE, 2013-21, 2314-34.

FRANCE, 1370, 1382-6, 1952.

GERMANY, 701-4, 823-53; code of Commerce, 429-607; Schuster, German law, pp. 154-60.

ITALY, 1151-6, 1629-31, 1866-8.

JAPAN, 709-24; code of Commerce, 336-9, 354.

LOUISIANA, 2751, 2292, 2315-24, 2965.

MEXICO, 1458-9, 2512.

PHILIPPINES (same as Spain).

PORTO RICO, 1504-5, 1685-6, 1803-11.

QUEBEC, 983, 1053-5, 1672, 1814.

RUSSIA, 609-89.

SPAIN, 1601-2, 1783-4, 1887, 1902-10.

SWITZERLAND, code of Obligations, 41-67, 447-9, 487.

III. See also supra §§ 1002, 1016; vol. ii, §§ 833-4.

§ 1018 Civil procedure: references.

I. Texts of Roman law:—

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

XII TABLES, i-iii; viii, 22-3; ix, 3-4.

LEX ACILIA REPETUNDARUM, 122 B.C. (translated by Hardy, Six Roman laws, pp. 10-34, Oxford, 1911).

GAIUS, iv, 1-187.

PAULUS, Sent. 1, 1a.

— 1, 2 De procuratoribus et cognitoribus.

- 1, 3 De procuratoribus.
- 1, 4 De negotiis gestis.
- 1, 5 De calumniatoribus.
- 1, 9a.
- 1, 10 De plus petendo.
- 1, 11 De satisdando.
- 1, 13a De iudicato.
- 1, 19 Quemadmodum actiones per infitiationem duplentur.
- 2, 1 De . . . jurejurando.
- 5, 5a De effectu sententiarum et finibus litium.
- 5, 5b.
- 5, 6 De interdictis.
- 5, 15 De testibus.
- 5, 16 De quaestionibus servorum.
- 5, 28 Ad legem Juliam repetundarum.
- 5, 32 Quando appellandum est.
- 5, 33 De cautionibus et poenis appellationum.
- 5, 34 De litteris dimissoriis.
- 5, 35 De reddendis causis appellationum.
- 5, 36 Post provocationem.
- 5, 37 De meritis appellationibus.
- COD. GREGORIAN. 1, 12 De postulando.
- 2 De iudiciis.
- 3 De jurejurando.
- 3 De petitione hereditatis.
- 3, 12 Si certum petatur. (§1018)
- 10 Quibus res iudicata non noceat.
- 10 De confessis.
- COD. HERMOGENIAN. Ubi agi debeat.
- De calumniatoribus et plus petendo.
- De instrumentis.
- De jurejurando.
- COD. THEOD. 1, 20 De officio iudicum civilium.
- 2, 1 De iurisdictione et ubi quis convenire debeat.
- 2, 2 Ne in sua causa quis iudicet.
- 2, 3 De omissa actionis impetratione.
- 2, 4 De denuntiatione vel editione rescripti.
- 2, 6 De temporum cursu, etc.
- 2, 9 De pactis et transactionibus.
- 2, 10 De postulando.
- 2, 11 De erroribus advocatorum.
- 2, 12 De cognitoribus et procurator.
- 2, 13 De actionibus ad potentes translatis.
- 2, 18 De iudiciis.
- 4, 5 De litigiosis.
- 4, 16 De re iudicata.
- 4, 17 De sententiis ex periculo recitandis.
- 4, 18 De fructibus et litis expensis.

- (§1018) — 4, 19 De usuris rei judicatae.
 — 4, 21 Quorum bonorum.
 — 4, 22 Unde vi.
 — 4, 23 Utrubi.
 — 9, 10 Ad legem Juliam de vi publica et privata.
 — 9, 11 De privati carceris custodia.
 — 11, 29 De relationibus.
 — 11, 30 De appellationibus.
 — 11, 31 De reparationibus appellationum.
 — 11, 32 De secundo lapsu.
 — 11, 34 De his qui per metum judicis non appellaverunt.
 — 11, 35 Si pendente appellatione mors venerit.
 — 11, 36 Quorum appellationes non recipiantur.
 — 11, 37 Si de momento fuerit appellatum.
 — 11, 38 De possession. ab eo, qui his provocaverit, transferendo.
 — 11, 39 De fide testium et instrumentorum.
 — 12, 9 De his, quae ex publica conlatione inlata sunt, non usurpandis.
 — 15, 14 De infirmandis quae sub tyrannis aut barbaris gesta sunt.
 COLLATIO MOSAIC. ET ROM.,
 8 De falso testimonio.
 — 9 De familiaris testimonio non admittendo.
 NOV. MARCIAN. 1 Neminem

exhiberi de provincia nisi ad relationem judicis a quo fuerit appellatum.

NOV. THEOD. 10 De postulando et perpetuanda ad-vocatione.

— 13 Contra sententias, etc.
 NOV. VALENTINIAN. 2 De postulando.

VATICAN FRAG. 317-41 De cognitor. et procurator.

(b) **Justinian:**

INST. 4, 6 De actionibus.

— 4, 10 De his quos agere possumus.

— 4, 11 De satisfactionibus.

— 4, 12 De perpetuis et temporalibus actionibus et quae ad heredes vel in heredes transeunt.

— 4, 13 De exceptionibus.

— 4, 14 De replicationibus.

— 4, 15 De interdictis.

— 4, 16 De poena temere litigantium.

— 4, 17 De officiis judicis.

DIG. 1, 21 De officio ejus cui mandata est jurisdictio.

— 2, 1 De jurisdictione.

— 2, 3 Si quis jus dicenti non obtemperaverit.

— 2, 4 De in jus vocando.

— 2, 5 Si quis in jus vocatus non ierit sive quis eum vocaverit, quem ex edicto non debuerit.

— 2, 6 In jus vocati ut eant aut satis vel cautum dent.

- 2, 7 Ne quis eum qui in jus vocabitur vi eximat.
- 2, 8 Qui satisfacere cogantur vel jurato promittant, etc.
- 2, 9 Si ex noxali causa agatur, quemadmodum caveatur.
- 2, 10 De eo per quem factum erit quominus quis in iudicio sistat.
- 2, 11 Si quis cautionibus in iudicio sistendi causa, etc.
- 2, 13 De edendo.
- 3, 1 De postulando.
- 3, 3 De procuratoribus, etc.
- 3, 6 De calumniatoribus.
- 4, 7 De alienatione iudicii mutandi causa facta.
- 5, 1 De iudiciis.
- 11, 1 De interrogationibus, etc.
- 12, 2 De iure iurando, etc.
- 12, 3 De in litem iurando.
- 16, 3 Depositum vel contra, 1, § 26.
- 21, 3 De exceptione rei venditae et traditae.
- 22, 3 De probationibus et praesumptionibus.
- 22, 4 De fide instrumentorum, etc.
- 22, 5 De testibus.
- 42, 1 De re iudicata et de effectu sententiarum et de interlocutionibus.
- 42, 2 De confessis. (§ 1018)
- 42, 4 Quibus ex causis in possessionem eatur.
- 42, 5 De rebus auctoritate iudicis possidendis seu vendundis.
- 43, 1 Interdictis sive extraordinariis actionibus, etc.
- 43, titles 2-23 (give a list of all the interdicts, such as Quorum bonorum, Utrubi, etc.).
- 44, 1 De exceptionibus, praescriptionibus, et praedictis.
- 44, 2 De exceptione rei iudicatae.
- 44, 3 De diversis praescriptionibus, etc.
- 44, 4 De doli mali et metus exceptione.
- 44, 5 Quorum rerum actio non datur.
- 44, 6 De litigiosis.
- 46, 5 De stipulationibus praetoriis.
- 46, 7 Judicatum solvi.
- 48, 20 De bonis damnatorum.
- 49, 1 De appellationibus et relationibus.
- 49, 2 A quibus appellari non licet.
- 49, 3 Quis a quo appellatur.
- 49, 4 Quando appellandum sit et intra quae tempora.

- (§1018) — 49, 5 De appellatiōnibus recipiendis vel non.
 — 49, 6 De libellis dimissoriis, etc.
 — 49, 7 Nihil innovari appellatione interposita.
 — 49, 8 Quae sententiae sine appellatione rescindantur.
 — 49, 9 An per alium causae appellationum reddi possunt.
 — 49, 10 Si tutor curator magistratusve creatus appellaverit.
 — 49, 11 Eum qui appellaverit in provincia defendi.
 — 49, 12 Apud eum, a quo appelletur, aliam causam agere compellendum.
 — 49, 13 Si pendente appellatione mors intervenerit.
 — 50, 13 De variis et extraordinariis cognitionibus et si iudex litem suam fecisse dicetur.
 CODE, 1, 20 Quando libellus principi datus litis contestationem facit.
 — 1, 21 Ut lite pendente post provocationem . . . nulli liceat imperatore supplicare.
 — 1, 25 De his qui ad statuas confugiunt.
 — 1, 45 De officio civilium iudicum.
 — 1, 47 De officio diversorum iudicum.
 — 1, 48 Ut omnes tam civiles quam militares iudices, etc.
 — 1, 50 De officio ejus qui vicem alicujus iudicis obtinent.
 — 1, 53 De contractibus iudicum . . . et inhibendos donationibus in eos, etc.
 — 1, 54 De modo multarum quae ab iudicibus infliguntur.
 — 2, 1 De edendo.
 — 2, 2 De in jus vocando.
 — 2, 3 De pedaneis iudiciis.
 — 2, 6 De postulando.
 — 2, 9 (10) De errore advocatorum vel libellos seu preces concipientum.
 — 2, 12 (13) De procuratoribus.
 — 2, 13 (14) Ne liceat potentioribus patrocinium litigantibus praestare vel actiones in se transferre.
 — 2, 14 (15) De his, qui potentiorum nomine titulos praediis adfigunt vel eorum nomina in lite praetendunt.
 — 2, 16 (17) Ut nemini liceat sine iudicis auctoritate signa imprimere rebus, quas alius tenet.
 — 2, 17 (18) Ne fiscus vel res publica procuracionem alicui patrocinii causa in lite praestat.

- 2, 26 (27) Si adversus rem judicatam.
- 2, 46 (47) Ubi et apud quem cognitio restitutionis, etc.
- 2, 47 (48) De . . . judicio in integrum restitutio.
- 2, 48 (49) Etiam per procurator. . . in integrum restitutionis, etc.
- 2, 49 (50) In integrum restitutione postulata, etc.
- 2, 52 (53) De temporibus in integrum restitutionis, etc.
- 2, 54 (55) De alienatione judicii mutandi causa facta.
- 2, 57 (58) De formulis et impetratione actionum sublati.
- 2, 58 (59) De jure jurando propter calumniam dando.
- 3, 2 De sportulis et sumptibus in diversis judiciis faciendis et de executoribus litium.
- 3, 4 Qui pro sua jurisdictione judices dare, etc.
- 3, 5 Ne quis in sua causa judicet, etc.
- 3, 6 Qui legitimam personam in judiciis habent vel non.
- 3, 7 Ut nemo invitus agere vel accusare cognatur.
- 3, 8 De ordine judiciorum.
- 3, 9 De litis contestatione.
- 3, 10 De plus peti- (§1018) tionibus.
- 3, 13 De jurisdictione, etc.
- 3, 19 Ubi in rem actio exerceri debet.
- 3, 21 Ubi agi oportet ratiociniis, etc.
- 3, 22 Ubi causa status agi debeat.
- 3, 23 Ubi quis de curiali vel cohortali aliave conditione conveniatur.
- 3, 24 Ubi senatores vel clarissimi civiliter vel criminaliter conveniantur.
- 3, 25 In quibus causis militantes fore praescriptione uti non possunt.
- 3, 27 Quando liceat sine judice . . . vindicare se, etc.
- 3, 40 De consortibus ejus litis.
- 3, 42 Ad exhibendum.
- 4, 1 De . . . jurejurando.
- 4, 2 Si certum petatur.
- 4, 19 De probationibus.
- 4, 20 De testibus.
- 4, 21 De fide instrumentorum, etc.
- 4, 22 Plus valere quod agitur, etc.
- 4, 31 De compensationibus.
- 5, 53 De in litem jurando.
- 5, 61 De actore a tutore seu curando dando.

- (§1018) CODE, 5, 75 De magistratibus conveniendis.
- 7, 42 De sentiis prae-
fectorum praetorio.
- 7, 43 Quomodo et quan-
do judex sententiam pro-
ferre debet, etc.
- 7, 44 De sentiis ex
periculo recitandis.
- 7, 45 De sentiis et
interlocutionibus omnium
judicum.
- 7, 46 De sententia quae
sine certa quantitate pro-
lata est.
- 7, 47 De sentiis, quae
pro eo quod interest pro-
feruntur.
- 7, 48 Si non a compe-
tenti iudice iudicatum esse
dicatur.
- 7, 49 De poena iudicis
qui male iudicavit, vel ejus,
qui iudicem vel adversarium
corrumpere curavit.
- 7, 50 Sententiam res-
cindi non posse.
- 7, 51 De fructibus et
litis expensis.
- 7, 52 De re iudicata.
- 7, 53 De executione rei
iudicatae.
- 7, 54 De usuris rei ju-
dicatae.
- 7, 55 Si plures una sen-
tentia condemnati sunt.
- 7, 56 Quibus res iudicata
non nocet.
- 7, 57 Comminationes,
epistulas, pragmata, sub-
scriptiones auctoritatem rei
iudicatae non habere.
- 7, 58 Si ex falsis instru-
mentis vel testimoniis ju-
dicatum erit.
- 7, 59 De confessis.
- 7, 60 Inter alios acta vel
iudicata aliis non nocere.
- 7, 61 De relationibus.
- 7, 62 De appellationi-
bus, etc.
- 7, 63 De temporibus
. . . appellationibus, etc.
- 7, 64 Quando provocare
necesse non est.
- 7, 65 Quorum appella-
tiones non recipiantur.
- 7, 66 Si pendente appel-
latione mors intervenerit.
- 7, 67 De his qui per
metum iudicis non appel-
laverunt.
- 7, 68 Si unus ex pluribus
appellaverit.
- 7, 69 Si de momentaria
possessione fuerit appella-
tum.
- 7, 70 Ne liceat in una
eadem causa tertio pro-
vocare, etc.
- 7, 71 Qui bonis cedere
possunt.
- 7, 72 De bonis auctori-
tate iudicis possidendis seu
venumdandis, etc.
- 8, 1 De interdictis.

- 8, titles 2-9 (give a list of interdicts such as *Quorum bonorum*, *Unde vi*, etc.).
- 8, 35 (36) *De exceptionibus sive praescriptionibus*.
- 8, 36 (37) *De litigiosis*.
- 9, 5 *De privatis carceribus inhihendis*.
- 9, 31 *Quando civilis actio criminali praejudicat et an utraque ab eodem exerceri*.
- 12, 52 (53) *De apparitoribus praefect. praetorio*, etc.
- 12, 53 (54) *De apparitoribus praefecti urbis*.
- 12, 54 (55) *De apparitoribus magistrorum militum*, etc.
- 12, 56 (57) *De apparitoribus comitis Orientis*.
- 12, 58 (59) *De apparitoribus praefecti annonae*.
- 12, 60 (61) *De exsecutoribus*, etc.
- 12, 63 (64) . . . *Judicium litterarum*, etc.
- Nov. 8 *Ut iudices sine quoquo suffragio fiant*.
- 20, *De administrantibus officiis in sacris appellationibus*.
- 23 *De appellationibus et intra quae tempora debeat appellari*.
- 41 *Lex ut bonus*.
- 47 *Ut praeponatur imperatoris nomen documentis, et ut Latinis litteris* (§1018) *apertius tempora perscribantur*.
- 49 *De his qui ingrediuntur ad appellationem . . . et de jurejurando dilationis*, etc.
- 50 *Appellationes ex quinque provinciis Caria et Cypro Cycladibus insulis et Mysia et Scythia apud quem oporteat examinari*.
- 51 *Scenicas . . . si jurejurandum dent*, etc.
- 53 *De exhibendis . . . et ut qui conveniuntur post vicesimam diem praesentur iudicibus . . . et ante litis congestionem . . . et de hypothecis appellantur*, etc.
- 69 *Ut omnes oboediant iudicibus provinciarum*, etc.
- 71 *Ut . . . clarissimis . . . in pecuniariis licere causis et per procuratorem et per se litigare*.
- 75 *De appellationibus Siciliae*.
- 79 *Apud quos oportet causam dicere monachos*, etc.
- 82 *De iudicibus . . . et cum jurejurando . . . et ut appellationes*, etc.
- 83 *Ut clerici apud proprios episcopos primum conveniantur et post haec apud civiles iudices*.
- 90 *De testibus*.

- (§1018) Nov. 93 De appellationibus.
 — 111 De litigiosis, etc.
 — 113 In medio litis non sacras formas aut sacras jussiones, sed secundum generales leges dirimi negotia.
 — 115 Ut cum de appellatione cognoscitur secundum illas leges debeat judicari quae tempore datae sententiae obtinebant, non secundum eas quae postea promulgatae sunt, etc.
 — 124 Ut litigantes jurent quia neque promiserunt dare iudicibus neque dabunt, et de sportulis, etc.
 — 125 Ut iudices non expectent jussionem, sed quae videntur eis decernant.
 — 126 Exemplum sacrae legis de appellationibus.
 — 152 Ne sacrae formae quae de publicis procedunt aliter valeant nisi si . . . insinuatae, etc.
- CONST. DISPERSAE (in Appendix to the Novels), 4 Ne quis metetur, etc.
- (c) **Post-Justinian:**
- THEOPHILUS, iv, titles 6, 10-17. For list of titles, see supra "b", Justinian, INST.
- ECLOGA, 14 De testibus, etc.
- PROCHIRON, 27 De testibus.
- EPANAGOGA, 7 De magistratibus, etc.
 — 11 De ordine iudiciorum.
 — 12 De testibus.
 — 13 De instrumentis.
- BAS. 6, 24 De officio iudici . . . et jurisdictio.
 — 7, 3 De ordine iudiciorum et de jurisdictione.
 — 7, 4 De executoribus, etc.
 — 7, 5 De iudicibus et ubi quisque agere et conveniri, etc.
 — 7, 6 De iudiciis et sumtibus eorum, et pluspetitione et mora, et sportulis.
 — 7, 7 Si quis jus dicenti non obtemperaverit.
 — 7, 8 De his, qui in jus vocati sequi debent aut non debent.
 — 7, 9 Ne liceat potentibus personis patrocinium litigantibus praestare, vel actiones in se transferre.
 — 7, 10 De his, qui potentiorum nomine titulos praedii affigunt, vel eorum nomina in lites praetendunt.
 — 7, 11 Ut nemo privatus titulos praedii . . . vel alienis imponat, aut nomen regium suspendat, et ne fiscus, etc.
 — 7, 12 In jus vocatus ut cautionem praestet.
 — 7, 13 Ne quis eorum, qui in jus vocatur, vi eximat.

- 7, 14 Qui satisfacere coguntur, vel jurato promittunt, . . . et de formulis, et de jurejurando propter calumniam dando.
- 7, 16 De milliaribus definitis peregre profecturo, etc.
- 7, 18 De edendo.
- 7, 19 De his, qui legitimam personam in judiciis habeant, vel non; et ut nemo invitus agere vel accusare cogatur.
- 8, 1 De postulando.
- 8, 2 De procuratoribus et defensoribus.
- 9, 1 De appellationibus.
- 9, 2 De his, qui in causis appellationum officia administrant.
- 9, 3 De re judicata, etc.
- 9, 4 De confessis.
- 9, 7 De rebus auctoritate judicum possidendis aut venundandis, etc.
- 9, 10 Cautio judicati sive condemnationis.
- 10, 9 Si adversus rem judicatam.
- 19, 12 De exceptione rei venditae et traditae.
- 21, 1 De testibus, etc.
- 22, 1 De probationibus et praesumptionibus, et fide instrumentorum, etc.
- 22, 3 De privatis scripturis, quae a reo proferuntur.
- 22, 4 Quomodo instrumentis, quae apud iudices insinuata sunt, fidem adhiberi oporteat.
- 22, 5 De jurejurando, sive voluntario, hoc est, delato sive necessario, sive judiciali.
- 22, 6 De jurejurando in litem.
- 23, 3 De usuris et fructibus et causis et omni accessione et mora.
- 38, 15 De jurejurando in litem.
- 42, 4 De interrogatione et responsione in jure facta.
- 43, 4 De praetoriis stipulationibus.
- 43, 5 De litigiosis.
- 51, 1 De exceptionibus et praejudiciis.
- 51, 2 De rei judicatae exceptione.
- 51, 4 De doli mali et metus exceptione.
- 51, 5 Ne vis fiat ei, qui in possessionem missus erit.
- 53, 2 De nava.
- 54, 11 De decretis, etc.
- 54, 14 De diversis et extraordinariis cognitionibus, et si iudex litem suam fecisse dicatur.
- 54, 32 Quo quisque ordine conveniatur.
- 54, 35 De his, qui ex officio . . . conveniuntur.

- (§1018) BAS. 56, 19 *Ne sacrae formae de causis publicis emissae aliter valeant, quam si insinuatae fuerint, etc.*
 — 58, 14 *De interdictis.*
 — 58, titles 15–17 (contain a list of interdicts).
 — 60, 50 *De quaestione.*
 — 60, 55 *Ut ne sint privati carceres.*
 HEXABIBLOS (preface, first section), *Judicum prae-paratio sive justitia.*
 — (preface, second section), *Condemnatio adv. judices proposita a Leone et Alexandro . . . principibus.*
 — 1, 2 *De actore et reo.*
 — 1, 4 *De judiciali sententia et re judicata.*
 — 1, 6 *De testibus.*
 — 1, 7 *De jurejurando.*
 — 1, 8 *De instrumentis.*
 — 2, 3 *De repetitione et amissione.*
- II. Modern references: —**
 (a) **In general:**
 AMOS, *Roman law*, pp. 343–80.
 — *Une question de procédure civile égyptienne — le rôle perpétuel*, Cairo, 1913.
 AUDIBERT, *Formules sans intentio* (Mélanges P. F. Girard, vol. i, pp. 35–65, Paris, 1912).
 AUSTIN, *Jurisprudence*³, vol. ii, pp. 602–10.
- BALDWIN, *The French jury system*, 2 Mich. Law Review, p. 597.
 BARTLETT, *The French judicial system*, 38 Law Mag. and Review, pp. 257–77; 33 Canadian Law Times, p. 941.
 BETHMANN-HOLLWEG, *Der germanische-romatische Civilprozess im Mittelalter*, 3 vols., Bonn, 1868–74.
 BODINGTON, *Outline of French law of evidence*, 53 Am. Law Reg., p. 62.
 BRUGI, *Dell azione sussidiaria in Teofilo*, 1, 24, 2 (Mélanges P. F. Girard, vol. i, pp. 143–53, Paris, 1912).
 CAUTIO JUDICATUM SOLVI in French law, 135 Law Times, pp. 96–7.
 CHALMERS, *Some points in Roman-Dutch procedure*, 10 Green Bag, p. 40.
 COLQUHOUN, *Roman law*, §§ 1980–2378.
 CRÉMIEU, *La justice privé, son évolution dans la procédure romaine*, Paris, 1908.
 DEBRAY, *La § Cato* (Dig. 45, 1, 4, §1), *la stipulatio poenae et les obligations indivisibles*, 32 Revue gén. du droit et de la légis., pp. 97–116, 217–41, 289–316.
 DUQUESNE, *Contribution à l'étude de la cautio judicatum solvi* (Mélanges

- Gérardin, pp. 197-228, Paris, 1907).
- La translatio iudicii dans la procédure civile romaine, Paris, 1910.
- ENCYCLOPEDIA Britannica¹¹, vol. xxiii, p. 570.
- ENGELMANN (Millar, transl.), History of Continental civil procedure (Continental Legal History Series), Boston.
- ESMEIN, L'effet relatif de la chose jugée (Mélanges Gérardin, pp. 229-51, Paris, 1907).
- La poursuite du vol et le serment purgatoire (Mélanges Esmein, pp. 233-68, Paris, 1886).
- FINIAUX, Les effets de la simple absence dans la procédure de l'ordo iudiciorum privatorum à l'époque de Cicéron (Études d'hist. jurid. off à P. F. Girard, vol. i, pp. 43-64, Paris, 1913).
- GALLINGER, Der Offenbarungseid (1884).
- GIRARD, Manuel de droit romain⁵, pp. 968-1078.
- Les jurés de l'action d'injures (Mélanges Gérardin, pp. 255-82, Paris, 1907).
- GOUDY, Two ancient Boocards, Oxford essays in legal history, 1913, p. 215.
- GREENIDGE, Legal procedure in Cicero's time, Oxford, 1894.
- HEFFER, Institutionen d. (§ 1018) röm. u. deutsch. Civilprozess (1825).
- System d. röm. u. deutsch. Civilprozessrechts (1843).
- HOWE, Roman law², pp. 333-46.
- HUNTER, Roman law⁴, pp. 967-1060.
- HUTSON v. JORDAN, 1 Ware (U. S. Dist. Ct. Rep.), 385.
- HUVELIN, L'arbitrium liti aestimandae et l'origine de la formule (Mélanges Gérardin, pp. 319-54, Paris, 1907).
- KELLER, Röm. Civilprozess z. Zeit der Legis Actionen, Berlin, 1872.
- (French transl. by Capmas), De la procédure civil et des actiones chez les romains, Paris, 1870.¹
- LANGDELL, Common Law pleading compared with that in Civil and Canon Law, 11 Harvard Law Rev., pp. 139-44, 155-7.
- LE GENTIL, Essai hist. sur les preuves sous les législations juive, égyptienne, indienne, grecque, et romaine avec quelques notes touchant les lois barbares et le vieux droit français, Paris, 1863.
- ¹ IRETON, Hearsay evidence in Europe, 66 U. S. Law Review, p. 1.

- (§1018) LEONHARD, *Die actio incerta quantitate* (Mélanges P. F. Girard, vol. ii, pp. 85-103, Paris, 1912).
- MACKELDEY (*Dropsie*, transl.), *Roman law*¹⁴, §§ 202-33.
- MACKENZIE, *Roman law*⁷, pp. 349-94.
- MASCARDUS, *De probationibus* (1080).
- MAY, *Observations sur les actions arbitrarie* (Mélanges P. F. Girard, vol. ii, pp. 151-69).
- MAYR, *Das sacramentum der Legis Actio* (Mélanges P. F. Girard, vol. ii, pp. 171-200, Paris, 1912).
- MACDONELL, *Roman law procedure*, 15 *Green Bag*, p. 396.
- MOREY, *Roman law*, pp. 387-413.
- MOYLE, *Inst. of Justinian*, vol. i, 5th ed., pp. 542-620.
- NABER, *De in rem actione legitima et per sponsionem* (Mélanges P. F. Girard, vol. ii, pp. 309-17, Paris, 1912).
- PETIT, *Droit romain*⁷, §§ 707-812.
- POSTE, *GAIUS*⁴, pp. 442-628.
- PROOF by ordeals among the Romans, 33 *Canadian Law Times*, p. 797.
- SAVIGNY, *Das Recht des Besitzes*⁷, §§ 34-43.
- *System*, vol. iv, §§ 177-203 and appendix 2; vol. v, §§ 204-30 and appendices 12-14; vol. vi, §§ 256-301 and appendices 15-17; vol. vii, §§ 302-14, 334-43.
- SCHLOSSMANN, *Litis contestatio* — *Studien zum röm. Zivilprozess*, Leipzig, 1905.
- SCHUSTER, *German Civil Law*, pp. 74-6.
- SHELTON, *The simplification of legal procedure*, 71 *Central Law Journal*, p. 331.
- SOHM (*Ledlie*³), *Roman law*, pp. 224-96.
- SPEYER, *Le jury à Rome et en Angleterre*, London, 1907.
- *Les vices de notre procédure en cours d'assises*, London, 1898.
- THE C. B. SANFORD, 22 *Fed. Rep.* 863.
- THOMAS, *Le rôle et le choix de l'exsecutor negotii dans la procédure extraordinaire à l'époque de Justinien* (*Études d'hist. jurid. off.* à P. F. Girard, vol. i, pp. 379-416, Paris, 1913).
- TRAVERS-TWISS, *The 12th century, the age of scientific procedure*, 19 *Law Mag. and Rev.*, pp. 181, 196.
- TROWBRIDGE, *A German jury trial*, 2 *California Law Rev.*, p. 34.

- TUOR, *Die Mors Litis im röm. Formulaverfahren*, Leipzig, 1906.
- WALTON, *Roman law*², pp. 125-35.
- WILLIAMS, *The function of evidence in Roman law*, 18 *Law Mag. and Rev.*, p. 183; 19 *Id.* pp. 64, 279; 20 *Id.* p. 73.
- WINCHESTER, *Trial by jury of Roman origin*, 9 *Green Bag*, p. 35.
- WLASSAK, *Röm. Processgesetze*, Leipzig, 1891.
- *Ea res agitur* (*Mélanges P. F. Girard*, vol. ii, pp. 615-44, Paris, 1912).
- (b) **Modern Codes:**
- See the Codes of Civil Procedure of the various countries.
- III. See also *infra* § 1019; *supra* vol. ii, §§ 716, 754, 835-72.

The Roman judicial organization (including the courts, § 1019 holidays, bar, and notaries): references.

A. Courts and judicial organization.

I. Texts of Roman law:—

For English translations, see *supra* §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

LEX ACILIA repetundarum (transl. by Hardy, *Six Roman laws*, pp. 10-34, Oxford, 1911).

COD. THEOD. 1, 5 *De officio praefectorum praetorio*.

— 1, 6 *De officio praefecti urbis*.

— 1, 8 *De officio quaestoris*.

— 1, 12 *De officio proconsulis et legati*.

— 1, 13 *De officio comitis Orientis*.

— 1, 15 *De officio vicarii*.

— 1, 16 *De officio rectoris provinciae*.

— 1, 17 *De officio rationalis, etc.*

— 1, 18 *De officio praefecti vigilum*.

— 1, 20 *De officio iudicum civilium*.

— 1, 21 *De officio iudicum militarium*.

— 1, 22 *De officio iudicum omnium*.

— 1, 29 *De defensoribus civitatum*.

— 1, 33 *De adsectoribus, etc.*

— 6, 4 *De praetoribus et quaestoribus*.

- (§1019) — 6, 6 De consulibus, praefectis militum et patriciis.
 — 6, 7 De praefectis praetorio sive urbis et magistris militum.
 — 6, 12 De comitibus consistorianis.
 — 6, 17 De comitibus qui provincias regunt.
 — 6, 18 De comitibus vacantibus.
 — 6, 19 De consularibus et praesidibus.
 — 8, 8 De executoribus, etc.
 — 12, 12 De legatis, etc.
 NOV. MARJORIAN. 3 De defensoribus civitatum.
 NOV. VALENTINIAN. 22 De officio . . . praefectorum praetorio.
- (b) **Justinian:**
- DIG. 1, 2 De origine . . . magistratum, etc., §§ 13-34.
 — 1, 9 De senatoribus.
 — 1, 10 De officio consulis.
 — 1, 11 De officio praefecti praetorio.
 — 1, 12 De officio praefecti urbi.
 — 1, 13 De officio quaestoris.
 — 1, 14 De officio praetorum.
 — 1, 15 De officio praefecti vigilum.
- 1, 16 De officio proconsulis et legati.
 — 1, 17 De officio praefecti Augustalis.
 — 1, 18 De officio praesidis.
 — 1, 19 De officio procuratoris Caesaris.
 — 1, 21 De officio ejus cui mandata est jurisdictio.
 — 1, 22 De officio assessorum.
 — 50, 15 De censibus.
- CODE, 1, 4 De episcopali audientia.
 — 1, 19 De precibus imperatori offerendis et de quibus rebus supplicare liceat vel non.
 — 1, 26 De officio praefectorum praetorii Orientis et Illyrici.
 — 1, 27 De officio praefecti praetorio Africae et de omni ejusdem dioecesis statu.
 — 1, 28 De officio praefecti urbis.
 — 1, 30 De officio quaestoris.
 — 1, 35 De officio proconsulis, et legati.
 — 1, 36 De officio comitis Orientis.
 — 1, 37 De officio praefecti Augustalis.
 — 1, 38 De officio vicarii.
 — 1, 39 De officio praetorum.
 — 1, 40 De officio rectoris provinciae.

- 1, 43 De officio praefecti vigillum.
- 1, 44 De officio praefecti annonae.
- 1, 45 De officio civilium iudicum.
- 1, 47 De officio diversorum iudicum.
- 1, 48 Ut omnes tam civiles quam militares iudices, etc.
- 1, 50 De officio ejus qui vicem alicujus iudicis obtinet.
- 1, 51 De adsectoribus.
- 1, 52 De annonis et . . . assessorum, etc.
- 1, 53 De contractibus iudicum . . . et inhibendis donationibus in eos, etc.
- 1, 54 De modo multarum quae ab iudices infliguntur.
- 1, 55 De defensoribus civitatum.
- 1, 56 De magistratibus municipalibus.
- 1, 57 De officio iudicis Alexandriae.
- 2, 3 De pedaneis iudicibus.
- 3, 4 Qui pro sua iurisdictione iudices dare, etc.
- 3, 5 Ne quis in sua causa iudicet, etc.
- 3, 8 De ordine iudiciorum.
- 3, 14 Quando imperator inter pupillos vel viduas vel miserabiles personas (§ 1019) cognoscat, etc.
- 3, 26 Ubi causae fiscales vel divinae domus hominumque ejus agantur.
- 7, 42 De sententiis praefectorum praetorio.
- 12, 2 De praetoribus, etc.
- 12, 3 De consulibus . . . et de praefectis, et magistris militum et patriciis.
- 12, 4 De praefectis praetorio, etc.
- 12, 6 De quaestoribus, magistris officiorum comitibus sacrarum largitionum, etc.
- 12, 10 De comitibus consistorianis.
- 12, 25 (26) De castrensianis et ministerianis.
- 12, 52 (53) De apparitoribus praefectum praetorio, etc.
- 12, 53 (54) De apparitoribus praefecti urbis.
- 12, 54 (55) De apparitoribus magistrorum militum.
- 12, 56 (57) De apparitoribus comitis Orientis.
- 12, 58 (59) De apparitoribus praefecti annonae.
- 12, 59 (60) De diversis officiis et apparitoribus iudicum, etc.
- 12, 60 (61) De exsecutoribus.

- (§1019) — 12, 63 (64) . . . Insinuatōres constitutionum et aliarum sacrarum vel judicialium litterarum, etc.
- Nov. 13 De praetoribus populi.
- 15 De defensoribus civitatum.
- 17 De mandatis principum.
- 20 De administrantibus officiis in sacris appellationibus.
- 24 De praetore Pisidiae.
- 25 De praetore Lycaoniae.
- 26 De praetore Thraciae.
- 27 De comite Isauriae.
- 28 De moderatore Helenoponti.
- 29 De praetore Paphlagoniae.
- 30 De proconsule Cappadociae.
- 69 Ut omnes oboediant iudicibus provinciarum, etc.
- 80 De quaestore.
- 83 Ut clerici apud proprios episcopos primum conveniantur et post haec apud civiles iudices.
- 86 Ut differentes iudices audire interpellantium allegationes cognatur ab episcopis hoc agere, etc.
- 95 De administratoribus.
- 96 De executoribus, etc.
- 102 De moderatore Arabiae.
- 103 De proconsule Palaestinae.
- 104 De praetore Siciliae.
- 105 De consulibus.
- 114 Ut divinae jussiones subscriptionem habeant gloriosi quaestoris.
- 149 Ut praesides provinciarum . . . ex supplicatione episcoporum, etc.
- 151 Ne curialis aut officialis sistatur aut in jus deducatur sine . . . imperiali jussu praefectis insinuando.
- 152 Ne sacrae formae quae de publicis procedunt aliter valeant nisi . . . praefectis praetorio insinuatae, etc.
- 161 De praesidibus.
- EDICTA (in Appendix to Novels), 4 De magistratu Phoeniciae, etc.
- 8 De Ponticae dioceseos vicario.
- (c) **Post-Justinian:**
- EPANAGOGA, 2 De imperatore.
- 5 De quaestore.
- 6 De reliquis magistratibus.
- 7 De . . . magistratibus, etc.
- BAS. 6, 1 De magistratibus, etc.
- 6, 2 De consulibus et proconsulibus, et legatis, etc.

- 6, 3 . . . ut praesides, etc.
 - 6, 4 De officio praefectorum urbis et . . . praefecti praetorio.
 - 6, 5 De praefecto vigilum seu praetore plebis.
 - 6, 6 De officio quaestoris, etc
 - 6, 7 De officio praetorum.
 - 6, 8 De praetore Pisi-diae.
 - 6, 9 De praetore Ly-caoniae.
 - 6, 10 De praetore Thra-ciae.
 - 6, 11 De comite Isauriae.
 - 6, 12 De moderatore Helenoponti.
 - 6, 13 De praetore Paph-lagoniae.
 - 6, 14 De descriptione quattuor praesidum Ar-meniae.
 - 6, 15 De moderatore Arabiae.
 - 6, 16 De proconsule Cap-padociae.
 - 6, 17 De proconsule Pal-aestinae.
 - 6, 18 De defensoribus.
 - 6, 19 De vicariis, etc.
 - 6, 20 Ut . . . dux vel biocolyta nullam licentiam habeat . . . cum civiles magistratus idonei sint, etc.
 - 6, 21 Ut omnes obediant praesidibus, etc.
 - 6, 22 Ut praesides inter- (§ 1019)
pellantis jura audire ab
episcopis cogantur, etc.
 - 6, 23 De procuratore sive
rationali, nunc logotheta.
 - 6, 24 De officio juridici
et iis quibus mandata est
jurisdictio, et de officio as-
sessorum.
 - 6, 25 De praepositis sacri
cubiculi, etc.
 - 7, 1 De iudicibus or-
dinariis et . . . ne apud as-
sessores litium contesta-
tione, fiant, etc.
 - 7, 4 De executoribus, etc.
 - 56, 19 Ne sacrae formae
. . . aliter valeant quam si
. . . praefectis praetorio in-
sinuatae, etc.
 - 60, 43 De lege Julia,
quae intenditur adv. magis-
tratus vel iudices vel as-
sessores in iudicio furantes.
- B. Adjournments, post-
ponements, dies non, holi-
days.**
- I. Texts of Roman law: —**
For English translations, see
supra §§ 945, 946, 948, 951,
952, 955.
- (a) **Ante-Justinian:**
COD. THEOD. 2, 7 De dilation.
— 2, 8 De feriis.
— 11, 33 De dilationibus
ex consensu.
— 15, 6 De Maiuma.

(§ 1019) (b) **Justinian:**

DIG. 2, 12 De feriis et dilationibus, etc.

CODE, 3, 11 De dilationibus.

— 2, 12 De feriis.

— 11, 46 (45) De Maiuma.

(c) **Post-Justinian:**

BAS. 7, 17 De diebus feriatis sive quietis a litibus, et dilationibus, etc.

C. Courts, judicial organizations, adjournments, postponements, dies non, holidays: modern references.

AMOS, Roman law, pp. 365-80.

BARTLETT, The French judicial system, 38 Law Mag. and Rev., pp. 257, 313.

BORGHESI, Les préfets du prétoire; d'Auguste à Constantin depuis Constantin, 2 vols., Paris, 1897.

— Les préfets de Rome (praefecti urbis Romanae), Paris, 1884.

BRISAUD (Garner, transl.), Hist. of French public law (vol. ix, Continental Legal History Series, p. 32), Boston, 1915.

CICOGNA, Consilium principis consistorium, Turin, 1902.

COLQUHOUN, Roman law, §§ 1-45.

ESMEIN, Un fragment de loi sur la juridiction des magistrats municipaux (Mélanges Esmein, pp. 269-92, Paris, 1886).

GANS, Judicial system of France, Juridical Review (Dec., 1903).

GAVET, De l'allegatio gestis (Mélanges P. F. Girard, vol. i, pp. 499-503) Paris, 1912. (On the defensores civitatum.)

GIRARD, Hist. de l'organisation judiciaire des romains, Paris, 1901.

— Droit romain⁶, p. 981.

GUENOUN, La lex Sempronia judiciaria, 632 U.C. (Études d'hist. jurid. off. à P. F. Girard, vol. i, pp. 85-98, Paris, 1913).

HUNTER, Roman law⁴, pp. 8, 11-16, 23, 27-9, 34-52, 70-74.

IRWELL, The judicial system of France, 14 Green Bag, p. 527.

JOUSSERANDOT, Des assessseurs près des tribunaux romains, Paris, 1887.

LEFERRE, Rôle des tribuns de la plèbe en procédure civile, Paris, 1910.

MACKELDEY (Dropsie), Roman law¹⁴, §§ 27-9, 35, 41-2, 57-8, 195.

MACKENZIE, Roman law⁷, pp. 349-59.

- MOMMSEN, Röm. Staatsrecht, vol. vii (book iii, "justice").
 — (French transl. by GIRARD), Droit public romain, vol. vii, pp. 266-74.
 MOREY, Roman law, pp. 388-91.
 PETIT, Droit romain, §§ 708-13.
 ROBY, Roman private law, vol. ii, pp. 312-26, 332-3.
 SAVIGNY, System, vol. vi, appendix 15.
 WILLEMS, Droit public romain⁷, pp. 33, 144, 205-79, 298-324, 465-77, 561-607, 631-41.
- 8, 1 De numerariis, ac- (§1019) tuariis, etc.
 — 8, 2 De tabulariis.
 — 8, 10 De concussionibus advocatorum.
 — 8, 7 De diversis officiis, 17.
 — 9, 9 De mulieribus quae se servis propriis junxerunt.
 — 10, 15 De advocatis fisci.
 — 11, 30 De appellationibus, etc.
 — 13, 10 De censu.
 — 13, 11 De censoribus.
 NOV. THEOD. 10 De . . . perpetuanda advocazione.
 NOV. VALENTINIAN. 2 De postulando.
 — 15 De siliquarum exactionibus.
 — 32 De . . . advocatis, etc.
 FRAG. VATICAN. 317-41 De . . . procuratoribus.

D. Bar and notaries.

I. Texts of Roman law:—

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

- GAIUS, i, 184; iv, 21, 25, 82-5, 101.
 PAULUS, Sent. 1, 2 De procuratoribus, etc.
 COD. THEOD. 2, 10 De postulando, 6.
 — 2, 11 De erroribus advocatorum.
 — 2, 12 De . . . procuratoribus.
 — 6, 10 De primicerio et notariis.

(b) Justinian:

- INST. 1, 11 De adoptionibus, § 3.
 — 3, 23 De emptione, etc., pr.
 — 4, 10 De his per quos agere, etc.
 DIG. 1, 16 De officio proconsulis, etc. 9, § 5.
 — 2, 4 De in jus vocando, 22, § 1.
 — 3, 1 De postulando.
 — 3, 2 De his qui notantur infamia.

- (§ 1019) — 3, 3 De procuratoribus, etc.
 — 3, 4 . . . Universitatis nomine vel contra eam agatur.
 — 17, 1 Mandati vel contra, 7.
 — 19, 2 Locati, etc., 38, § 1.
 — 26, 10 De suspectis tutor., etc., 3, § 15.
 — 48, 19 De poenis, 9, §§ 4-7.
 — 50, 4 De muneribus, etc., 18, § 17.
 — 50, 13 De . . . extraordinariis cognitionibus, etc., 1, §§ 10 and 12.
 CODE, 1, 2 De . . . ecclesiis, etc., 14, § 6 (3).
 — 1, 4 De episcopali audentia, etc.
 — 2, 7 De advocatis diversorum judiciorum.
 — 2, 8 (9) De advocatis fisci.
 — 2, 9 (10) De errore advocatorum vel libellos seu preces concipientum.
 — 2, 10 (11) Ut quae desunt advocacioni partum iudex suppleat.
 — 2, 12 (13) De procuratoribus.
 — 4, 21 De fide instrumentorum, etc., 17.
 — 5, 44 De in litem dando tutor. vel curator.
 — 6, 22 Qui facere testamentum, etc., 8.
 — 7, 17 De adsertione tollenda.
 — 7, 62 De appellationibus, 4.
 — 10, 71 (69) De tabulariis, etc.
 — 11, 54 (53) Ut nemo ad suum patrocinium, etc., 1.
 — 11, 58 De censibus, etc.
 — 12, 7 De primicerio et secundocerio et notariis.
 — 12, 19 De proximis sacrorum scriniorum, etc., 1.
 — 12, 49 (50) De numariis, actuariis . . . exceptoribus sedis excelsae ceterorum iudicum, etc.
 — 12, 61 (62) De lucris advocatorum et concussionibus, etc.
 NOV. 44 De tabellionibus, etc.
- (c) **Post-Justinian:**
 THEOPHILUS, i, 11, § 3; iii, 23, pr.; iv, 10.
 BAS. 6, 25 De . . . notariis.
 — 6, 35 De tabulariis et actuariis . . . et exceptoribus . . . excelsae sedis et reliquorum iudicum, etc.
 — 8, 1 De postulando, 26.
 — 8, 2 De procuratoribus, etc.
 — 21, 3 De . . . infamia, etc.
 — 22, 2 De tabellionibus, etc.
 — 54, 8 De tabulariis, etc.
 HEXABIBLOS, 3, 3 De emtione.

II. Modern references (bar and notaries):—

- AMOS, Roman law, p. 377.
- ADVOCAT (advocate), *Clef to French transl. of the Corpus Juris Civilis*.
- BENEDICT, *Die Advocatur unserer Zeit*, Berlin, 1912.
- BRISSAUD (Garner, transl.), *Hist. of French public law* (vol. ix, *Continental Legal Hist. Series*, p. 462, Boston, 1915).
- CANFIELD, *The Roman lawyer*, 7 *Mich. Law Rev.*, p. 557.
- COLQUHOUN, Roman law, §§ 325, 495, 499, 2202-9.
- COX-SINCLAIR, *The bar in France*, 31 *Law Quart. Rev.*, p. 171.
- DURANDO, *Il tabellionato o notario nelli leggi romane*, etc., Turin, 1897.
- FARMER, *The ancient lawyer*, 25 *Am. Law Rev.*, p. 25.
- *The Roman advocate*, 25 *Am. Law Rev.*, p. 341.
- FULLER, *The French bar*, 23 *Yale Law Journal*, p. 248.
- GIRARD, *Droit romain*⁵, pp. 934-44.
- GRELLET-DUMAZEAU, *Le barreau romain depuis son origine jusqu'à Justinien*, Paris, 1851.
- HUNTER, *Roman law*⁴, pp. 1022-9.
- LABORDERIE-BOULOU, *Note* (§ 1019) sur l'origine de la force probante de l'acte de notoriété, 38 *Revue gén. du droit*, pp. 60-62.
- *Recherches sur les origines de la responsabilité notariale*, 36 *Revue gén. du droit*, pp. 385-94.
- *Un contrat de travail dans les mines de Dacie au temps des Antonins*, 33 *Revue gén. du droit*, pp. 193-8.
- MACKENZIE, *Roman law*⁷, pp. 441-58.
- PAPPALAVA, *Das Notariat in San Marino*, Innsbruck, 1910. (See 36 *Law Mag. and Rev.*, p. 12.)
- PARKER, *Bench and bar in France*, 24 *Law Mag. and Rev.*, p. 431.
- PELLISON, *Roman life in Pliny's time*, pp. 136-50, New York, 1897. (The Bar.)
- PIERANTONI, *Gli avvocati di Roma antica*, Bologna, 1900.
- RODRIGUEZ-SERRA, *Admission of attorneys from the Spanish standpoint*, *Am. Bar Proceedings*, 1910, p. 840.
- SAVIGNY, *Geschichte d. röm. Rechts im Mittelalter*², vol. i, §§ 16, 106, 140.

- SMITH, Dict. of Greek and Roman antiquities³, "advocatus."
- SMITHERS, Hist. of the French notarial system, 60 Univ. of Penn. Law Rev., p. 19.
- STEPHENS, Advocates of Greece and Rome, 54 Albany Law Journal, p. 12.
- VAN WINKLE, The Roman bar, 15 Albany Law Journal, pp. 405, 425.
- VERDAILLE, Le barreau dans l'antiquité romaine, Bordeaux, 1873.
- WILLEMS, Droit public romain⁷, pp. 314, 473, 499, 633.
- E. See also** supra § 1018, infra § 1021; supra vol. ii, §§ 874-907.

§ 1020 Public law in general: references.

- I. Texts of Roman law:—**
- For English translations, see supra §§ 945, 946, 948, 951, 952, 955.
- (b) **Justinian:**
- CODE, 11, 30 (29) De jure rei publicae.
- (c) **Post-Justinian:**
- BAS. 54, 28 De jure reipublicae.
- II. Modern references:—**
- BRISSAUD (Garner, transl.), Hist. of French public law (vol. ix., Continental Legal Hist. Series, Boston, 1915).
- HERSCHEL, Frontinus and the water supply of the city of Rome, New York, 1913.
- M McNULTY, Eminent domain in Continental Europe, 21 Yale Law Journal, p. 555.
- MARQUARDT, Röm. Staatsverwaltung², 4 vols. Leipzig, 1881-85. (See infra MARQUARDT and MOMMSEN.)
- (French translations), Organisation de l'empire romain; de l'organisation financière chez les romains; de l'organisation militaire chez les romains; le culte chez les romains; la vie privée des romains; 8 vols., Paris, 1888-93.
- MARQUARDT and MOMMSEN, Handbuch d. röm. Alterthümer³, 7 books in 9 vols., Leipzig, 1867-88.
- (French translation), Manuel des antiquités romaines, 15 vols., Paris, 1888-93.
- MOMMSEN, Röm. Staatsrecht³, 5 vols., Leipzig, 1876-88. (See supra MARQUARDT and MOMMSEN.)

- (French translation by GIRARD), *Droit public romain*, 8 vols., Paris, 1889–96.
- (Spanish translation by DORADO) *Compendio del derecho publico*, Madrid, 1899.
- SERAFINI, *Il diritto publico romano*, Pisa, 1896.
- WILLEMS, *Droit public romain*⁷, Louvain, 1910.
- WILLIAMS, *State and private life in Roman law*, 15 *Law Mag. and Rev.*, p. 1.
- III. See also *infra* §§ 1021–26; *supra* vol. ii, § 873; vol. i, §§ 30–33, 35, 55, 120, 173.

Constitutional and administrative law (including the Roman § 1021 civil service) : references.

- I. **Texts of Roman law : —**
- For English translations, see *supra* §§ 945, 946, 948, 951, 952, 955.
- (a) **Ante-Justinian :**
- COD. THEOD. i, titles 5–6, 8–10, 12–13, 15–22, 28–9, 33; vi, 2–10, 12, 15–20, 23–9, 32, 37–8; viii, 1–5, 7–9, 11, 15; xii, 12; xiv, 12, 23; xv. (The principal subjects of these titles are the praetorian prefect, praefectus urbi, praefectus vigilum, magister militum, magister officiorum, vicar, rector, consul, proconsul, comes, legatus, praeses, quaestor, rationalis, assessor, defensor civitatis, praetor, senate, knights, patricius, decurio, agentes, notary.)
- NOV. MARJORIAN. 3 De defensor. civitat.
- NOV. VALENTINIAN. 11–12⁷ 22, 30.
- (b) **Justinian :**
- DIG. i, titles 9–19, 21–2; 1, 5–7. (The principal subjects of these titles are the senate, consul, praetorian prefect, praefectus urbi, praefectus vigilum, praetor, quaestor, proconsul, praefectus Augustalis, praeses, procurator Caesaris, legatus, assessor.)
- CODE, i, titles 26–8, 30–41, 43–5, 47–8, 50–52, 55–7; ii, 7–8; iii, 14; vi, 11; vii, 42; x, 41, 65, 71; xi, 20, 30–31, 34, 58; xii, 1–10, 13, 17, 19–27, 31–2, 49, 52–6, 58–9, 61, 63. (The principal subjects of these titles are the praetorian prefect, praefectus urbi, praefectus vigilum, praefectus annonae, prae-

- (§1021) fectus Augustalis, vicar, rector, consul, proconsul, legatus, praetor, quaestor, magister officiorum, magister militum, magister scri-niorum, comes, defensor civitatis, assessor, advocate, notary, apparitor, agentes, decani).
- Nov. 10, 13, 15, 17, 20, 24-31, 35, 41, 44, 62, 69, 80, 95-6, 102, 104-5, 114, 134, 145, 149, 151-2, 161, 168. (The principal subjects of these titles are the emperor, senate, consul, pro-consul, praetor, praetorian prefect, comes, dux, knights, praeses, moderator, defensor civitatis, administrator, executor, notary.)
- EDICTA (Appendix to Novels), 4, 8, 12-13.
- (c) **Post-Justinian:**
- EPANAGOGA, titles 2, 4-7.
- BAS. vi, titles 1-25, 27-9, 31, 33-5; vii, 1, 4; xxii, 2; liv. 8-9, 28-9, 23; lvi, 19. (The principal subjects of these titles are the praetorian prefect, praefectus urbi, praefectus vigilum, consul, proconsul, praetor, comes, dux, vicar, quaestor, praeses, moderator, defensor civitatis, procurator, rationalis, assessor, knights, legatus, executor, notary, decani.)
- HEXABIBLOS (Appendix, title 1), De dignitatibus.
- II. Modern references:—**
- ALLEN, Enquiry into rise and progress of the royal prerogative, London, 1831.
- ARNOLD, Roman provincial administration², pp. 11-12, 62, 71-4, 243-6, Oxford, 1906.
- BUCKLAND, Roman law of slavery, pp. 318, 588, Cambridge, 1908 (servus publicus).
- INVREA, Ricerche di diritto pubblico romano nelle vite dei Cesari di Suetonio (excerpt from the Filangieri, 1913).
- MARQUARDT, Röm. Staats-verwaltg.², Leipzig, 1881-85. — (French translation), particularly WEISS and LOUIS-LUCAS' Organisation de l'empire romain, 2 vols., Paris, 1889-92.
- MATTINGLY, The imperial civil service of Rome, Cambridge, 1910.
- MOMMSEN, Röm. Staats-recht³, 5 vols., Leipzig, 1876-88. — (French translation by GIRARD), Droit public romain, 8 vols., Paris, 1889-96.

SANDS, *The client princes of the Roman Empire*, Cambridge, 1906.

WILLEMS, *Droit public romain*⁷, Louvain, 1910.

III. See also supra §§ 949, 956, 1018-20; infra §§ 1022-5; supra vol. ii, §§ 441-4, 873; vol. i, §§ 49, 55, 120, 173.

Municipal corporations: references.

§ 1022

I. Texts of Roman law:—

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

LEX Antonia de Termisibus, 70-72 B.C. (transl. by Hardy, *Six Roman laws*, pp. 94-101, Oxford, 1911).

LEX Coloniae Genetivae Juliae sive Ursonensis (Bruns, *Fontes juris*⁶, p. 123), Leipzig, 1893.

LEX Julia municipalis (transl. by Hardy, *Id.*, pp. 149-64).

— (Bruns, *Fontes juris*⁶, pp. 136-64).

LEX municipii Tarentini, (transl. by Hardy, *Id.* pp. 106-9).

LEX Rubria de Gallia Cisalpina (transl. by Hardy, *Id.*, pp. 125-35).

LEX municipalis Salpensana (Bruns, *Fontes juris*⁶, pp. 142-7).

COD. THEOD. 1, 29 De defensor. civitat.

— 1, 30 De curator. civitat.

— 1, 31 De administrat. intra urbem.

— 5, 2 De decurion.

— 6, 23 De decurion., etc.

— 12, 1 De decurion.

— 12, 2 De praebendo salario.

— 12, 3 De praediis et mancipiis curialium, etc.

— 12, 4 De imponenda lucrativis, etc.

— 12, 5 Quemadmodum munera civilia indicantur.

— 12, 13 De auro coronario.

— 12, 14 De irenarchis.

— 12, 18 Si curialis relicta civitate rus habitare maluerit.

— 12, 19 De his qui condicionem propriam reliquerunt.

— 14, 1 De decuriis urbis Romae.

— 14, 25 De frumento Karthaginiensi.

— 14, 26 De frumento Alexandrino.

— 14, 27 De Alexandrinae plebis primatibus.

- (§ 1022) — 15, 1 De operibus publicis.
- 15, 2 De aquaeductu.
- 15, 5 De spectaculis.
- NOV. LEO and SEVERUS, 2.
- NOV. MARCIAN. 3 De praediis civitatum omnium.
- NOV. MARJORIAN. 3 De defensor. civitat.
- 7 De curialibus, etc.
- NOV. THEOD. 9 Ne curialis, etc.
- 10 De postulando, etc.
- 16 Ne curialis, etc.
- 23 De locis rei publicae . . . possessis civitatibus, etc.
- NOV. VALENTINIAN. 3 De succession. curialium, etc.
- 15 De siliquarum exaction.
- 20 De corporatis urbis Romae, etc.
- 32 De confirm. his quae administratibus . . . distracta, etc.
- (b) Justinian:**
- DIG. 3, 4 Quod . . . universitatis, etc.
- 47, 22 De collegiis et corporibus.
- 50, 1 Ad municipalem et de incolis.
- 50, 2 De decurion.
- 50, 3 De albo scribendo.
- 50, 4 De muneribus, etc.
- 50, 5 De vacatione et excusatione munerum.
- 50, 6 De jure immunitatis.
- 50, 8 De administratione rerum ad civitates pertinentium.
- 50, 9 De decretis ob ordine faciendis.
- 50, 10 De operibus publicis.
- 50, 11 De nundinis.
- 50, 12 De pollicitationibus.
- CODE, 1, 55 De defensor. civitat.
- 1, 56 De magistratibus municipal.
- 3, 23 Ubi quis de curiali vel cohortali, etc.
- 6, 62 De hereditatibus decurion., etc.
- 10, 22 De apochis publicis et . . . curial.
- 10, 32 (31) De decurion.
- 10, 33 (32) Si . . . ad decurionatum, etc.
- 10, 34 (33) De praediis curial., etc.
- 10, 35 (34) Quando . . . decurion., etc.
- 10, 36 (35) De imponenda lucrativis, etc.
- 10, 38 (37) Si curialis relicta civitate rus habitare maluerit.
- 10, 39 (38) De municipibus et originariis.
- 10, 41 (40) De . . . muneribus, etc.

- 10, 42 (41) De muneri-
bus, etc.
- 10, 43 (42) Quemad-
modum civilium munera
indicantur.
- 10, 44 (43) De . . .
munera.
- 10, 45 (44) De his qui
a principe vacationem ac-
ciperunt.
- 10, 46 (45) De vacatione
muneris.
- 10, 47 (46) De decretis
decurion., etc.
- 10, 48 (47) De excusa-
tionibus munerum.
- 10, 49 (48) De . . .
muneribus nemini liceat se
excusare.
- 10, 50 (49) Qui aetate se
excusant.
- 10, 51 (50) Qui morbo.
- 10, 52 (51) De his qui
. . . excusationem meru-
erunt.
- 10, 53 (52) De profes-
soribus, etc.
- 10, 54 (53) De athleticis.
- 10, 55 (54) De his
qui non . . . stipendiis,
etc.
- 10, 58 (56) De liber-
tinis.
- 10, 62 (60) De filiis
familias, etc.
- 10, 63 (61) De periculo
successor. parentis.
- 10, 64 (62) De mulieri-
bus . . . munera, etc.
- 10, 66 (64) De excusa- (§1022)
tionibus artificum.
- 10, 67 (65)–73 (71) are
minor titles on munera.
- 10, 77 (75) De irenar-
chis.
- 11, 14 (13) De decuriis
urbis Romae.
- 11, 15 (14) De privile-
giis corporatorum urbis
Romae.
- 11, 18 (17) De collegiatis,
etc.
- 11, 21 (20) De privilegiis
urbis Constantinopolitanae.
- 11, 22 (21) De metropoli
Beryto.
- 11, 29 (28) De Alexan-
driae primatibus.
- 11, 32 (31) De vendendis
rebus civitatis.
- 11, 33 (32) De debitori-
bus civitatum.
- 11, 36 (35) Quo quisque
que ordine conveniatur.
- 11, 40 (39) De solutioni-
bus . . . debitorum civita-
tis.
- 11, 43 (42) De aquae-
ductu.
- 11, 57 (56) Ut nullus ex
vicanis pro alienis debitis
vicanorum teneatur.
- 11, 70 (69) De diversis
praediis urbanis, etc.
- 11, 71 (70) De locatione
praediorum civilium, etc.
- 12, 16 De decurion.
- 12, 62 (63) De primipilo.

- (§1022) Nov. 15 De defensor. civitat.
 — 38 De naturalibus in curiam deputandis vel . . . facultate curialium, etc.
 — 45 Ut haeretici curiales, etc.
 — 70 Ut ordinariae praefecturae urbanae . . . a curiali fortuna.
 — 87 De mortis causa donatione a curial. facta.
 — 101 De donation. a curial. factis, etc.
 — 151 Ne curialis, etc.
 — 160 Exemplum sacrae pragmaticae sanctionis.
 EDICTA (Appendix to Nov.),
 10 De cohortalibus. — 54, 30 De vendendis rebus civitatis.
 — 54, 31 De debitoribus civitatis.
 — 54, 36 De solutionibus . . . debitorum civitatis.
 — 55, 13 De diversis praediis urbanis et rusticis templorum et civitatum et omni reditu civilu.
 — 58, 12 De operibus publicis et . . . redditibus civitatum.
 — 58, 19 De magnis aquaeductis.
 — 58, 22 De cloacis.

(c) **Post-Justinian :**

- BAS. 6, 18 De defensoribus.
 — 40, 1 De bonorum possession., etc.
 — 48, 3 De manumission. servorum ad universitatem. pertinentium, etc.
 — 54, 1 De municipibus et muneribus.
 — 54, 10 De administratione rerum ad civitatem pertinentium.
 — 54, 19 De privilegiis corporum urbis Romae.
 — 54, 22 De magistris liberorum in urbe Roma et Constantinopoli.
 — 54, 23 De privilegiis Constantinopolis et metropolis Beryti.
 AMOS, Roman law, pp. 120–21.
 BECHARD, Droit municipal dans l'antiquité, au moyen-âge et dans les temps modernes, Paris, 1861–6.
 BRISSAUD (Garner, transl.), Hist. of French public law (vol. ix, Continental Legal Hist. Series, pp. 40–44.
 COLQUHOUN, Roman law, §§ 835–61.
 DILL, Roman society from Nero to Marcus Aurelius, pp. 196–250, London, 1905.
 ENCYCL. BRITAN.¹¹, vol. 19, p. 7, "municipium."
 ESMEIN, La table de Bantia (Mélanges Esmein, pp. 323–38, Paris, 1886).

II. Modern references:—

- GIRARD, *Droit romain*⁵, pp. 241, 821.
- GOODNOW, *Municipal government*, pp. 45-53, New York, 1909.
- HAGLUND, *The Roman law of municipal water-supply and aqueduct service*, New Haven, 1914 (Parker Prize Essay).
- HARDY, *Six Roman laws*, pp. 137-63, Oxford, 1911.
- HUNTER, *Roman law*⁴, p. 32.
- JOUGUET, *La vie municipale dans l'Égypte romaine*, Paris, 1911.
- MARQUARDT, *Röm. Staatsverwalt.*², Leipzig, 1881-85.
— (French translation) especially WEISS and LOUIS-LUCAS, *Organisation de l'empire romain*, vol. i, Paris, 1889.
- MOMMSEN, *Röm. Staatsrecht*³, "municipia," Leipzig, 1887-88.
— (French translation by GIRARD), *Droit public romain*, vol. vi, part 2, pp. 407-75, Paris, 1889.
- PETIT, *Droit romain*⁷, § 70.
- REID, *Municipalities of the Roman Empire*, Cambridge, 1913.
- SAVIGNY, *System*, vol. ii, §§ 85-102.
- SMITH, *Dict. of Greek and Roman antiquities*³, "corpus", "collegium", "municipium", "universitas."
- SOHM (Ledlie³), *Roman law*, p. 189.
- WALTZING, *Étude hist. sur les corporations professionnelles chez les romains*, vol. ii, p. 215, Louvain, 1895-1900.
- WHARTON, *Conflict of laws*², § 24.
- WILLEMS, *Les elections municipales à Pompei*, Paris, 1886.
— *Droit public romain*⁷, pp. 349-75, 508-41, 585-93, 652.
- ZULUETA, *De patrociniis vicorum* (vol. i, Oxford studies in legal history, pp. 1-77, Oxford, 1909).
- III. See also supra §§ 994, 1021; infra §§ 1024-6; vol. ii, §§ 538, 908-12.

Criminal law: references.

§ 1023

I. Texts of Roman law: —

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

XII TABLES, viii, 9-10, 12-17, 20, 24-6; ix, 2-6.

- (§1023) LEX Acilia repetundarum (transl. by Hardy, Six Roman laws, pp.10-34, Oxford, 1911).
- PAULUS, Sent. 1, 5 De calumniatoribus.
- 1, 6b De reis institutis.
- 1, 12 De judiciis omnibus.
- 2, 26 De adulteriis.
- 2, 31 De furtis.
- 4, 7 De lege Cornelia.
- 5, 3 De his quae per turbam fiunt.
- 5, 13 De delatoribus.
- 5, 14 De quaestionibus, etc.
- 5, 16 De quaestionibus servorum.
- 5, 17 De abolitionibus.
- 5, 18 De abactoribus.
- 5, 19 De sacrilegis.
- 5, 20 De incendiariis.
- 5, 21 De vaticinatoribus et mathematicis.
- 5, 21a (offenses against the coinage; against desertion).
- 5, 22 De seditiosis.
- 5, 23 Ad legem Cornelianam de sicariis et veneficis.
- 5, 24 Ad legem Pompeiam de parricidis.
- 5, 25 Ad legem Cornelianam testamentariam.
- 5, 26 Ad legem Juliam de vi publica et privata.
- 5, 27 Ad legem Juliam peculatus.
- 5, 28 Ad legem Juliam repetundarum.
- 5, 29 Ad legem Juliam majestatis.
- 5, 30a Ad legem Juliam ambitus.
- 5, 31 De peonis militum.
- COD. GREGORIAN. 14 Ad legem Cornelianam de sicariis et veneficis.
- 14 Ad legem Juliam de adulteriis et de stupro.
- COD. HERMOGENIAN. Ad legem Juliam de adulteriis.
- De calumniatoribus, etc.
- COD. THEOD. 1, 12 De officio proconsuli et legati.
- 2, 29 Si . . . de suffragiis.
- 6, 27 De agentibus in rebus.
- 6, 28 De principibus agentum in rebus.
- 6, 29 De curiosis.
- 8, 10 De concussionibus advocatorum, etc.
- 9, 1 De accusationibus et inscriptionibus.
- 9, 2 De exhibendis vel transmittendis reis.
- 9, 3 De custodia reorum.
- 9, 4 Si quis imperatori maledixerit.
- 9, 5 Ad legem Juliam majestatis.
- 9, 6 Ne praeter crimen majestatis, etc.
- 9, 7 Ad legem Juliam de adulteriis.

- 9, 8 Si quis eam, cujus tutor fuerit, corruperit.
- 9, 9 De mulieribus, quae se servis propriis junxerunt.
- 9, 10 Ad legem Juliam de vi publica et privata.
- 9, 11 De privati carceris custodia.
- 9, 12 De emendatione servorum.
- 9, 13 De emendatione propinquorum.
- 9, 14 Ad legem Corneliam de sicariis.
- 9, 15 De parricidis.
- 9, 16 De maleficis et mathematicis, etc.
- 9, 17 De sepulchro violato.
- 9, 18 Ad legem Fabiam.
- 9, 19 Ad legem Corneliam de falso.
- 9, 20 Victum civiliter agere criminaliter posse.
- 9, 21 De falsa moneta.
- 9, 22 Si quis solidi circulum exteriorem inciderit vel adulteratum in vendendo subjecerit.
- 9, 23 Si quis pecunias conflaverit, etc.
- 9, 24 De raptu virginum vel viduarum.
- 9, 25 De raptu vel matrimonio sanctimonialium virginum vel viduarum.
- 9, 26 Ad legem Juliam de ambitu.
- 9, 27 Ad legem Juliam repetundarum.
- 9, 28 De crimine peculatus. (§ 1023)
- 9, 29 De his, qui latrones vel alii criminibus reos occultaverint.
- 9, 30 Quibus equorum usus concessus est, aut denegatus.
- 9, 31 Ne pastoribus dentur filii nutriendi.
- 9, 32 De Nili aggeribus non corrumpendis.
- 9, 33 De his, qui plebem audent contra publicam colligere disciplinam.
- 9, 34 De famosis libellis.
- 9, 35 De quaestionibus.
- 9, 36 Ut intra annum criminalis quaestio terminetur.
- 9, 37 De abolitionibus.
- 9, 38 De indulgentiis criminum.
- 9, 39 De calumniatoribus.
- 9, 40 De poenis.
- 9, 41 Ne sine jussu principis certis iudiciis liceat confiscare.
- 9, 42 De bonis proscribtorum seu damnatorum.
- 9, 43 De sententiam passis et restitutis et liberis eorum.
- 9, 44 De his qui ad statuas confugiunt.
- 9, 45 De his, qui ad ecclesias confugiunt.

- (§1023) — 10, 11 De his qui se deferunt.
 — 11, 26 De discussoribus.
 — 11, 30 De appellationibus, etc.
 — 12, 9 De his, quae ex publica conlatione inlata sunt, non usurpandis.
 — 15, 1 De operibus publicis.
 — 15, 8 De lenonibus.
 — 15, 14 De infirmendis quae sub tyrannis aut barbaris gesta sunt.
 — 15, 15 Quibus armorum usus interdictus est.
 COLLATIO MOSAIC. ET ROM.
 1, 1-4 De sicariis et homicidis casu vel voluntate.
 — 1, 5-13 De casual. homicidis.
 — 2 De atroci injuria.
 — 4 De adulteriis.
 — 5 De stupratoribus.
 — 6 De incestis nuptiis.
 — 7 De furibus et de poena eorum.
 — 8 De falso testimonio.
 — 11 De abactoribus.
 — 12 De incendiariis.
 — 14 De plagiariis.
 — 15 De mathematicis, maleficis et Manichaeis.
 NOV. MARJORIAN. 5 De bonis caducis sive proscriptorum.
 — 9 De adulteriis.
 NOV. THEOD. 18 De lenonibus.
 NOV. VALENTIAN. 9 De reddito jure armorum.
 — 16 De pretio solidi et ne quis solidum integrum recuset.
 — 19 De homicidis casu factis necne.
 — 23 De sepulchro. violatoribus.
 — 33 De parentibus qui filios distraxerunt, et ne ingenui barbaris venunderunt, etc.
 (b) **Justinian:**
 INST. 4, 1 De obligation. . . . ex delicto, etc., §§ 1-19.
 — 4, 4 De injuriis, § 10.
 — 4, 18 De publicis judiciis.
 DIG. 3, 6 De calumniatoribus.
 — 11, 5 De aleatoribus.
 — 43, 23 De cloacis.
 — 47, 2 De furtis.
 — 47, 4 Si is, qui testamento liber esse jussus erit post mortem domini ante aditam hereditatem subripuisse aut corrupisse, etc.
 — 47, 5 Furti adversus nautas, caupones, stabularios.
 — 47, 7 Arborum furtim caesarum.
 — 47, 8 Vi bonorum raptorum et de turba.
 — 47, 9 De incendio ruina naufragio rate nave expugnata.
 — 47, 10 De injuriis et famosis libellis.

- 47, 11 De extraordinariis criminibus.
- 47, 12 De sepulchro violato.
- 47, 13 De concussione.
- 47, 14 De abigeis.
- 47, 15 De praevaricatione.
- 47, 16 De receptatoribus.
- 47, 17 De furibus balneariis.
- 47, 18 De effractoribus et expilatoribus.
- 47, 19 Expilatae hereditatis.
- 47, 20 Stellionatus.
- 47, 21 De termino moto.
- 47, 23 De popularibus actionibus.
- 48, 1 De publicis judiciis.
- 48, 2 De accusationibus et inscriptionibus.
- 48, 3 De custodia ex exhibitione reorum.
- 48, 4 Ad legem Juliam majestatis.
- 48, 5 Ad legem Juliam de adulteriis, etc.
- 48, 6 Ad legem Juliam de vi publica.
- 48, 7 Ad legem Juliam de vi privata.
- 48, 8 Ad legem Corneliam desicariis et veneficis.
- 48, 9 De lege Pompeia de parricidiis.
- 48, 10 De lege Cornelia defalsis et de SC. Liboniano.
- 48, 11 De lege Julia (§ 1023) repetundarum.
- 48, 12 De lege Julia de annona.
- 48, 13 Ad legem Juliam peculatus et de sacrilegis, etc.
- 48, 14 De lege Julia ambitus.
- 48, 15 De lege Fabia de plagiariis.
- 48, 16 Ad. SC. Turpillianum et de abolitionibus criminum.
- 48, 17 De requirendis vel abstinendis damnandis.
- 48, 18 De quaestionibus.
- 48, 19 De poenis.
- 48, 20 De bonis damnatorum.
- 48, 21 De bonis eorum qui ante sententiam vel mortem sibi consciverunt vel accusatorem corrupe-runt.
- 48, 22 De interdictis et relegatis et deportatis.
- 48, 23 De sententiam passis et restitutis.
- 48, 24 De cadaveribus punitorum.
- 49, 13 Si pendente ap-pellatione mors intervenit.
- 50, 10 De operibus pub-licis.
- CODE 1, 19 De precibus im-peratori offerendis et de quibus rebus supplicare li-ceat vel non.

- (§1023) CODE, 1, 21 Ut lite pendente vel post provocationem aut definitivam sententiam nulli liceat imperatori supplicare.
- 1, 22 Si contra jus . . . aliquid postulatam vel impetratum.
- 1, 24 De statuibus et imaginibus.
- 1, 25 De his qui ad statuas confugiunt.
- 1, 42 De quadrimenstruis, etc.
- 1, 54 De modo multarum quae ab iudicibus infliguntur.
- 2, 1 De iudiciis.
- 2, 58 (59) De iurejurando propter calumniam dando.
- 3, 7 Ut nemo invitus agere vel accusare cogatur.
- 3, 15 Ubi de criminibus agi oportet.
- 3, 24 Ubi senatores vel clarissimi civiliter vel criminaliter conveniantur.
- 3, 43 De aleae lusu et aleatoribus.
- 4, 3 De suffragio.
- 4, 42 De eunuchis.
- 4, 59 De monopolis, etc.
- 7, 49 De poena iudicis qui male iudicavit, vel ejus qui iudicem vel adversarium corrumpere curavit.
- 8, 11 (12) De operibus publicis.
- 8, 51 (52) De infantibus expositis . . . et de his qui sanguinolentos emptos nutriendos acceperunt.
- 9, 1 Qui accusare non possunt.
- 9, 2 De accusationibus et inscriptionibus.
- 9, 3 De exhibendis vel transmittendis reis.
- 9, 4 De custodia reorum.
- 9, 5 De privatis carceribus inhibendis.
- 9, 6 Si reus vel accusator mortuus fuerit.
- 9, 7 Si quis imperatori maledixerit.
- 9, 8 Ad legem Juliam maiestatis.
- 9, 9 Ad legem Juliam de adulteriis et de stupro.
- 9, 10 Si quis eam cuius tutor fuerit corruperit.
- 9, 11 De mulieribus quae servis propriis se junxerunt.
- 9, 11 Ad legem Juliam de vi publica seu privata.
- 9, 13 De raptu virginum seu viduarum nec non sanctionum.
- 9, 14 De emendatione servorum.
- 9, 15 De emendatione propinquorum.
- 9, 16 Ad legem Corneliam de sicariis.
- 9, 17 De his qui parentes vel liberos occiderunt.

- 9, 18 De maleficis et mathematicis, etc.
- 9, 19 De sepulchro violato.
- 9, 20 Ad legem Fabiam.
- 9, 21 Ad legem Viselliam.
- 9, 22 Ad legem Corneliam de falsis.
- 9, 23 De his qui sibi abscribant in testamento.
- 9, 24 De falsa moneta.
- 9, 25 De mutatione nominis.
- 9, 26 Ad legem Juliam de ambitu.
- 9, 27 Ad legem Juliam repetundarum.
- 9, 28 De crimine peculatus.
- 9, 29 De crimine sacrilegii.
- 9, 30 De seditiosis et his qui plebem audent contra publicam quietum colligere.
- 9, 31 Quando civilis actio criminali praejudicet et an utraque ab eodem exerceri potest.
- 9, 32 De crimine expolatae hereditatis.
- 9, 33 Vi bonorum raptorum.
- 9, 34 De crimine stellionatus.
- 9, 35 De injuriis.
- 9, 36 De famosis libellis.
- 9, 37 De abigeis.
- 9, 38 De Nili aggeribus non rumpendis.
- 9, 39 De his qui latrones (§ 1023) vel in aliis criminibus reos occultaverint.
- 9, 40 De requirendis.
- 9, 41 De quaestionibus.
- 9, 42 De abolitionibus.
- 9, 43 De generali abolitione.
- 9, 44 Ut intra certum tempus criminalis quaestio terminetur.
- 9, 45 Ad. SC. Turpilianum.
- 9, 46 De calumniatoribus.
- 9, 47 De poenis.
- 9, 48 Ne sine jussu principis certis iudicibus liceat confiscare.
- 9, 49 De bonis proscriptorum, seu damnatorum.
- 9, 50 De bonis mortem sibi consciscentium.
- 9, 51 De sententiam passis et restitutis.
- 10, 6 De his qui ex publicis rationibus mutuam pecuniam acceperunt.
- 10, 10 De petitionibus et ultro datis et delationibus.
- 10, 11 De delatoribus.
- 10, 12 De petitionibus bonorum sublatiis.
- 10, 13 De his qui se deferunt.
- 10, 59 (57) De infamibus.
- 10, 60 (58) De reis, etc.
- 11, 41 (40) De spectaculis et scaenicis et lenonibus.

(§1023) CODE, 11, 50 (49) In quibus
causis coloni . . . accusare
possunt.

— 12, 20 De agentibus in
rebus.

— 12, 21 (22) De principi-
bus agentum in rebus.

— 12, 22 (23) De curiosis.
Nov. 8 Ut iudices sine quo-
quo suffragio fiant.

— 12 De incestis et nefariis
nuptiis.

— 14 De lenonibus.

— 49 De . . . jurejurando
calumniae.

— 69 Ut omnes oboediant
iudicibus provinciarum et
in criminalibus, etc.

— 71 Ut ab illustribus et
qui super eam dignitatem
sunt . . . criminaliter per
procuratorem dicatur, etc.

— 134 Ut nulli iudicum
liceat loci servatorem, etc.

— 139 Remissio poenae il-
licitarum nuptiarum.

— 141 Edictum Justiniani
ad Constantinopol. de
luxuriantibus contra na-
turam.

— 142 De iis qui eunuchos
faciunt.

— 143 De raptis mulieri-
bus et quae raptoribus nu-
bunt.

— 150 De raptis mulieribus
et quae raptoribus nubunt.

— 152 Ne sacrae formae
quae de publicis procedunt

aliter valeant nisi si . . .
insinuatae, etc.

— 153 De infantibus ex-
positis.

(c) **Post-Justinian :**

THEOPHILUS, 4, 1 De obliga-
tion. . . ex delicto, etc.,
§§ 1-19.

— 4, 4 De injuriis, § 10.

— 4, 18 De publicis judiciis.

ECLOGA, 17 De poenis in
criminal. causis.

PROCHIRON, 39 De poenis.

EPANAGOGA, 40 De poenis.

BAS. 6, 29 De agentibus in
rebus.

— 7, 14 Qui . . . de jure-
jurando propter calumniam,
etc.

— 7, 19 . . . Ut nemo in-
vitus agere vel accusare
cogatur.

— 21, 2 De . . . infamia.

— 21, 3 De . . . infamia,
etc.

— 28, 6 De incestis nuptiis.

— 31, 9 Si mulier ventris
. . . calumniae causa, etc.

— 43, 7 De multis, quae
ex condemnatione iudicum
veniunt.

— 56, 7 De delationibus.

— 56, 13 Ut nemo ad suum
patrocinium suscipiat rus-
ticanos vel vicos eorum.

— 58, 12 De operibus pub-
licis, etc.

- 59, 2 De mortuo inferendo et sepulchro aedificando.
- 60, 1 De . . . poenis, etc.
- 60, 8 De aleatoribus.
- 60, 12 De furto.
- 60, 13 Si quis in testamento liber esse jubeatur et post mortem domini ante aditionem hereditatis subripuisse aut corrupisse, etc.
- 60, 14 De furto adv. caupones et stabularios.
- 60, 16 De arboribus palim vel furtim caesis.
- 60, 17 De bonis raptis, et de turba, et de vi armata.
- 60, 21 De injuriis et famosis libellis.
- 60, 22 De extraordinariis criminibus.
- 60, 23 De violatione sepulcrorum, etc.
- 60, 24 De concussione.
- 60, 25 De abigeis.
- 60, 26 De accusatoribus sive praevaricatoribus.
- 60, 27 De receptatoribus.
- 60, 28 De iis, qui carcere effugiunt, et de expilatione.
- 60, 29 De expilata hereditate.
- 60, 30 Actio in stelliones.
- 60, 31 De termino moto.
- 60, 32 De . . . popularibus actionibus.
- 60, 33 De publicis judiciis.
- 60, 34 De accusationibus (§ 1023) et inscriptionibus.
- 60, 35 De custodia . . . reorum.
- 60, 36 Lex Julia . . . majestatis.
- 60, 37 Lex Julia de adulteriis et de stupro, etc.
- 60, 38 Ut ne lenones ullo loco Romanae reipublicae.
- 60, 39 Lex Cornelia de sicariis et veneficis et mathematicis, etc.
- 60, 40 Lex Pompeia de parricidis.
- 60, 41 Lex Cornelia de falsis et SC. Libonianum.
- 60, 43 De lege Julia . . . adversus magistratus vel iudices vel assessores, etc.
- 60, 44 De lege Julia de annona.
- 60, 45 Lex Julia contra peculatores, et de sacrilegis etc.
- 60, 46 Lex Julia in ambitiosos.
- 60, 48 Lex Fabia de plagiaribus.
- 60, 49 De requisitione absentium condemnatorum.
- 60, 50 De quaestione.
- 60, 51 De poenis.
- 60, 52 Bonis damnatorum.
- 60, 53 Bonis eorum qui ante sententiam vel mortem sibi consciverunt, etc.

- (§ 1023) BAS. 60, 54 De interdictis et relegatis et deportatis.
 — 60, 56 Si reus vel accusator mortuus fuerit.
 — 60, 57 Si quis eam, cujus tutor fuerit, corruperit.
 — 60, 60 De adulteratoribus monetæ et mutatione nominis.
 — 60, 61 De seditiosis et iis qui plebem contra rem publicam audent colligere.
 — 60, 62 Quando civilis vel criminalis condemnatio et utrum utraque an una tantum ab eodem exerceri possit.
 — 60, 63 De famosis libellis.
 — 60, 64 De abolitionibus et de generali abolitione.
 — 60, 65 Ut intra statutum tempus quaestio finiatur.
 — 60, 66 De accusatore desistente.
 — 60, 67 Ne sine jussu principis non statutis iudicibus liceat confiscare.
 — 60, 68 De sententiis passis et restitutis.
 — 60, 69 De reliquis punitorum.
 HEXABIBLOS, Condemnatio adv. iudices proposita a Leone et Alexandro, etc. (second section of preface).
 — 1, 4 De judiciali sententia et re iudicata.
 — 1, 5 De delationibus.
 — 1, 13 De mulieribus (includes "SC. Turpillianum", "tergiversatio").
 — 1, 16 De militibus.
 — 6, 1 De damno.
 — 6, 2 De adulteriis.
 — 6, 3 De scortatoribus et virginum corruptoribus.
 — 6, 4 De his qui suo se sanguine miscent.
 — 6, 5 De furibus, abigeis, sepulcrorum effossoribus et sacrilegis.
 — 6, 6 De homicidiis et latronibus.
 — 6, 7 De mulierum raptoribus.
 — 6, 9 De calumniatoribus et famosi libelli inventori-
 bus.
 — 6, 10 De veneficis, maleficis et divinatoribus.
 — 6, 14 De . . . poenis.
 — 6, 15 De . . . infamia, etc.
 HEXABIBLOS (leges agrariae, 2), De furto.
 — (leges agrariae), De incendio.
- II. Modern references:—**
 (a) **In general:**
 ASTON, Problems of Roman criminal law, 13 Journal of Comparative Legisl. N. S. part 2, p. 213 (1913).
 BAR (Bell, transl.), Hist. of Continental criminal law (vol. vi, Continental Legal

- History Series, Boston, 1916).
- BORCHARD, Bibliography of international law and Continental law, Washington, 1913.
- BOWYER, Readings, London, 1851.
- CAPOBIANCO, Il diritto penale di Roma, Florence, 1893.
- COLQUHOUN, Roman law §§ 2379-2486.
- COUDERT, French criminal procedure, 19 Yale Law Journal, pp. 326-40.
- CRIMES, prescription of, 37 Law Mag. and Rev., p. 128.
- DESJARDINS, Traité du vol spécialement dans le droit romain, Paris, 1881.
- ENCYCL. BRITAN.¹¹, "criminal law," vol. vii, p. 454.
- ENGLISH and French criminal law, — a contrast, 30 Canadian Law Times, p. 156.
- ESMEIN (Simpson, transl.), Hist. of Continental criminal procedure (vol. v, Continental Legal Hist. Series, pp. 13-29, Boston, 1913).
- Decem faciunt populum, Dig. 47, 8, 4, 3 (Mélanges P. F. Girard, vol. i, pp. 457-73, Paris, 1912).
- Le délit d'adultère à Rome et la loi Julia de adulteriis (Mélanges Esmein, pp. 70-170, Paris, 1886).
- FERRERO, Women of the Caesars, 82 Century Mag., p. 610; also New York, 1911. (On laesa majestas.)
- FRENCH criminal procedure and evidence, 44 Am. Law Rev., pp. 82-7.
- GIRARD, Hist. de l'organisation judiciaire des romains, Paris, 1901.
- Droit romain⁵, p. 199.
- HUIER, A French criminal trial, 21 Law Students' Helper, pp. 16-18.
- HUNTER, Roman law⁴, pp. 55-9, 1061-75.
- KEEDY, Criminal procedure in Scotland, 3 Journal of Criminal Law and Criminology, pp. 728, 834¹
- LOTMAR, Lex Julia de Adulteriis und Incestum (Mélanges P. F. Girard, vol. ii, pp. 119-53, Paris, 1912).
- MACKELDEY (Dropsie, transl.) Roman law¹⁴, §§ 29, 41, 42.
- MACKENZIE, Roman law⁷, pp. 396-440.
- MAINE, Ancient law, ch. x.
- MARSHALL, Punishment of crime under the Roman Empire, 23 Law Mag. and Rev., p. 12.
- Homicide in the Roman law, 21 Law Mag. and Rev., p. 232.
- Law of Treason in the Roman Empire (Law Mag. and Rev.).

¹ LARDONE, A note on plagium (kidnapping), Detroit Univ. Law Rev., 1932.

- MITTEIS, Reichsrecht und Volksrecht in den öst. Provinzen des röm. Kaiserreichs, Leipzig, 1891.
- MITTEIS-WILCKEN, Grundzüge und Chrestomathie der Papyruskunde, vol. ii, Leipzig, 1912.
- MOMMSEN, Röm. Strafrecht, Leipzig, 1899.
- (Duquesne, transl.), Droit pénal romain, 3 vols., Paris, 1907.
- MOYLE, Inst. of Justinian, vol. i, 5th ed., pp. 620, 627.
- PETIT, Droit romain⁷, § 445.
- ROMERO, Anglo-Saxon and Roman systems of criminal jurisprudence, 8 Green Bag, p. 410.
- SCRUTTON, Roman law in England, p. 148.
- SAINT-EDMÉ, Dictionnaire de la pénalité, etc., 5 vols., Paris, 1828. (Roman and French criminal law.)
- STEPHEN, Hist. of the criminal law of England, London, 1883. (Index.)
- STRACHAN-DAVIDSON, Problems of the Roman criminal law, 2 vols., Oxford, 1912.
- TISSOT, Le droit pénal étudié . . . dans les lois des différents peuples du monde, Paris, 1887. (Roman and French criminal law.)
- WILLEMS, Droit public romain⁷, pp. 331-42.
- ZACKE, Criminalprozess d. röm. Republik, Leipzig, 1871.
- ZUMPT, Criminalrecht d. röm. Republik, Berlin, 1869.

(b) **Modern Codes:**

See the Penal Codes of various countries.

III. See also supra §§ 1016 (injuria, furtum, rapina), 1018 (especially appeals), 1021, 1022; vol. ii, §§ 913-38; vol. i, §§ 152, 174.

§ 1024 Financial law (including the treasury département or fiscus of the State, revenues and expenditures of the State, coinage, taxation, public and Imperial domains, mines, public games, trade, commerce, annona, education): references.

A. In general.

BRISSAUD (Garner, transl.), Hist. of French public law (vol. ix, Continental Legal

Hist. Series, pp. 35-7, Boston, 1915).

MARQUARDT, Röm. Staatsverwaltung,² Leipzig, 1881-85.

— (French transl. by HUBERT), *De l'organisation financière chez les romains*, Paris, 1888.

SEE also supra §§ 1019, 1021; vol. ii, § 939.

WILLEMS, *Droit public romain*⁷, pp. 477-500, 617-30.

B. Imperial treasury or *fiscus*, indiction, superindiction, taxation, and revenues.

I. Texts of Roman law:—

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) *Ante-Justinian*:

PAULUS, *Sent.* 5, 1a.

ULPIAN, *Reg.* 17 *De caducis*.

COD. HERMOGENIAN. *De jure fisci*.

COD. THEOD. 1, 14 *De officio praefecti Augustalis*.

— 2, 6 *De temporum cursu*, etc.

— 4, 13 *De vectigalibus*, etc.

— 4, 15 *De quinquennii praescriptione*.

— 5, 11 (*De omni agro deserto*).

— 5, 14 (*De diversis praediis urbanis et rusticis et de omni redditu civili*).

— 5, 15 (*De omni deserto*, etc.).

— 5, 16 (*De agricolis et Mancipiiis dominicis vel fisco*, etc.).

— 6, 23 *De decurionibus*, etc.

— 6, 30 *De palatinis sacrarum largitionum*, etc.

— 8, 15 *De his, quae administrantibus vel publicum officium gerentibus distracta sunt vel donata*.

— 9, 42 *De bonis proscriptorum seu damnatorum*.

— 10, 1 *De jure fisci*.

— 10, 2 *De locatione fundorum . . . rei publicae*, etc.

— 10, 8 *De bonis vacantibus*.

— 10, 9 *De incorporatione*.

— 10, 10 *De . . . delatoribus*.

— 10, 11 *De his qui se deferunt*.

— 10, 12 *Si vagum petatur Mancipium*.

— 10, 13 *De petitoribus*, etc.

— 10, 14 *Si petitione socius sine herede defecerit*.

— 10, 15 *De advocatis fisci*.

— 10, 16 *De fisci debitoribus*.

— 10, 17 *De fide et jure hastae*.

— 10, 18 *De thesauris*.

— 10, 19 *De metallis et metallariis*.

- (§ 1024) COD. THEOD. 10, 20 De muralibus, etc.
- 10, 21 De vestibus, etc.
- 10, 22 De fabricensibus.
- 10, 23 De classicis.
- 11, 1 De annona et tributis.
- 11, 2 Tributa in ipsis speciebus inferri.
- 11, 3 Sine censu vel reliquis fundum comparari non posse.
- 11, 4 Ne conlatio per logografos celebretur.
- 11, 5 De indictionibus.
- 11, 6 De superindictio.
- 11, 7 De exactionibus.
- 11, 8 De superexactionibus.
- 11, titles 9-25 concern minor features of taxation and revenue.
- 11, 26 De discussoribus.
- 11, 27 De alimentis, quae inopes parentes de publico petere debent.
- 11, 28 De indulgentiis debitorum.
- 12, 1 De decurion.
- 12, 2 De praebendo salario.
- 12, 6 De susceptoribus . . . et arcariis.
- 12, 7 De ponderatoribus et auri inlatione.
- 12, 8 De auri publici prosecutoribus.
- 12, 10 Ne praefectianus exactoris, etc.
- 12, 11 De curator. kalendarii, etc.
- 12, 16 De mancipibus.
- 13, 1 De lustrali conlatione.
- 13, 2 De argenti pretio quod thesauris infertur.
- 13, 10 De censu sive adscriptione.
- 13, 11 De censitoribus, etc.
- 14, 22 De saccariis Portus Romae.
- NOV. MARCIAN. 2 De indulgentiis reliquorum.
- NOV. MARJORIAN. 2 De indulgentiis reliquorum.
- 5 De bonis caducis sive proscriptorum.
- 10 Neque senatorem urbis Romae, etc.
- NOV. THEOD. 17 De competentibus.
- 26 De relevatis, etc.
- NOV. VALENTINIAN. 1 De indulgentiis reliquorum.
- 7 De palatinis.
- 13 De tributis fiscal., etc.
- 15 De siliquarum exactionibus.
- 29 De naviculariis amnicis.
- 34 De praediis pistoriis, etc.
- 36 De suariis, boariis et pecuariis.

(b) **Justinian :**

- DIG. 39, 4 De publicanis et vectigalibus, etc.
 — 48, 20 De bonis damnatorum.
 — 49, 14 De jure fisci.
 — 50, 15 De censibus.
 CODE, 2 8 (9) De advocatis fisci.
 — 2, 17 (18) Ne fiscus vel res publica procurationem, etc.
 — 2, 36 (37) Si adversus fiscum.
 — 3, 26 Ubi causae fiscales, etc.
 — 4, 15 Quando fiscus, etc.
 — 4, 61 De vectigalibus, etc.
 — 4, 62 Vectigalia nova institui non posse.
 — 6, 62 De hereditatibus decurion., etc.
 — 7, 73 De privilegio fisci.
 — 9, 49 De bonis proscriptorum seu damnatorum.
 — 10, 1 De jure fisci.
 — 10, 2 De conveniendis fisci debitoribus.
 — 10, 3 De fide et jure hastae fisci, etc.
 — 10, 4 De venditione rerum fiscalium, etc.
 — 10, 5 Ne fiscus rem quam vendidit evincat.
 — 10, 7 Poenis fiscalibus creditores praeferri.
 — 10, 8 De fiscalibus usuris. (§ 1024)
 — 10, 9 De sententiis adv. fiscum, etc.
 — 10, 10 De bonis vacantibus et de incorporatione.
 — 10, 11 De delatoribus.
 — 10, 12 De petitionibus bonorum sublati.
 — 10, 13 De his qui se deferunt.
 — 10, 14 Si liberalitatis imperialis socius sine herede defecerit.
 — 10, 15 De thesauris.
 — 10, 16 De annona et tributis.
 — 10, 17 De indictionibus.
 — 10, 18 De superindicto.
 — 10, 19 De exactionibus tributorum.
 — 10, 20 De superexactionibus.
 — 10, 21 De capiendis et distrahendis pignoribus tributorum causa.
 — 10, 22 De apochis publicis, etc.
 — 10, 23 De canone largitionalium titulorum.
 — 10, 24 Ne operae a colatoribus exigantur.
 — 10, 25 De immunitate nemini concedenda.
 — 10, 26 De conditis in publicis horreis.
 — 10, 27 Ut nemini liceat in co-emptione specierum se excusare, etc.

- (§1024) CODE, 10, 28 De collatione donatorum vel relevatorum, etc.
- 10, 29 De collatione aeris.
- 10, 30 De discussoribus.
- 10, 36 (35) De imponenda lucrativis descriptione.
- 10, 37 (36) De praebendo salario.
- 10, 55 (54) De his qui non impletis stipendiis, etc.
- 10, 57 (56) De conductoribus vectigalium fisci.
- 10, 71 (69) De . . . censualibus.
- 10, 72 (70) De susceptoribus . . . et arcariis.
- 10, 73 (71) De ponderatoribus et auri illatione.
- 10, 74 (72) De auri publici prosecutor.
- 10, 75 (73) De his quae ex publica collatione illata sunt non usurpandis.
- 10, 76 (74) De auro coronario.
- 10, 78 (76) De argenti pretio quod thesauris infertur.
- 11, 1 De tollenda lustralis auri collatione.
- 11, 48 (47) De agricolis censitis, etc.
- 11, 49 (48) De capitatione civium censibus eximenda.
- 11, 50 (49) In quibus causis coloni censiti dominos accusare possunt.
- 11, 58 (57) De censibus, etc.
- 11, 59 (58) De omni agro deserto, etc.
- 11, 70 (69) De diversis praediis urbanis et rusticis . . . et omni redditu civile.
- 11, 71 (70) De locatione praediorum civilium vel fiscalium, etc.
- 11, 72 (71) De conductoribus et procuratoribus sive actoribus praediorum fiscalium, etc.
- 11, 73 (72) Quibus ad conductionem praediorum fiscalium accedere non licet.
- 11, 74 (73) De collatione fundorum fiscalium, etc.
- 12, 60 (61) De executoribus, etc.
- Nov. 128 De collatoribus, etc.
- 147 De reliquis publicis non exigendis et de discussione.
- 148 De indulgentia reliquorum publicorum.
- 149 Ut praesides . . . quidquid iis tributorum publicorum, etc.
- 163 De relevatione tributorum.
- 166 De sterilium adjectione.

CONST. DISPERSAE (in second appendix to Nov.), 4 Ne quis metetur, etc.

EDICTA (in first appendix to Nov.), 2 Ne praesides in fiscalibus asyli jus dent.
— 10 De cohortalibus.

(c) **Post-Justinian:**

ECLOGA, 18 De partitione spoliolum.

BAS. 7, 11 Ut nemo privatus titulos praediis . . . vel alienis imponat, aut nomen regium suspandat; et ne fiscus, etc.

— 9, 9 De privilegio fisci, etc.

— 10, 19 Si adversus fiscum.

— 15, 3 De agro vectigali petendo.

— 55, 10 De collatione fundorum, etc.

— 56, 1 De publicanis et vectigalibus publicis.

— 56, 2 De jure fisci.

— 56, 3 De censibus, etc.

— 56, 4 De vectigalium exactione.

— 56, 5 De conveniendis fisci debitoribus.

— 56, 6 De fide et jure fisci, etc.

— 56, 8 De annonis et tributis.

— 56, 9 De conditis in publicis horreis.

— 56, 10 De collatione aeris et de retractionibus.

— 56, 11 De susceptori- (§ 1024) bus . . . et arcariis.

— 56, 12 De collatione illustrium et de auri collatione.

— 56, 14 De censibus . . . inspectoribus.

— 56, 18 De publicorum tributorum exactione, etc.

— 56, 20 De adjectionibus.

— 60, 52 De bonis damnatorum.

HEXABIBLOS, 2, 5 De . . . vectigalibus, etc.

II. Modern references:—

COLQUHOUN, Roman law, §§ 8, 35, 380, 437, 1992.

SEE also supra "A"; § 1021; vol. ii, §§ 677, 691.

SMITH, Dict. of Greek and Roman antiq.³, "censor".

THIBAUD, Les impôts directs sous le Bas-Empire romain, Paris, 1900.

THOMAS, Le rôle et le choix de l'executor negotii dans la procédure extraordinaire à l'époque de Justinien (Études d'hist. jurid. off. à P. F. Girard, vol. i, pp. 379-416, Paris, 1913).

C. Public domains and property.

I. Texts of Roman law:—

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(§ 1024) (a) **Ante-Justinian:**

COD. THEOD. 4, 24 De aedificiis . . . publicis.

— 10, 3 De locatione fundorum, etc.

— 14, 14 De campo Martio urbis Romae.

— 15, 2 De aquaeductu.

— 15, 3 De itinere muniendo.

NOV. MARJORIAN. 4 De aedificiis publicis.

NOV. THEOD. 23 De locis rei publicae . . . possessis civitatibus, etc.

(b) **Justinian:**

DIG. 43, 7 De locis et itineribus.

— 43, 8 Ne quid in loco publico vel itinere fiat.

— 43, 9 De loco publico fruendo.

— 43, 10 De via publica et itinere publico reficiendo.

— 43, 12 De fluminibus.
Ne quid in flumine publico ripave . . . fiat quo peius navigetur.

— 43, 13 Ne quid in flumine publico fiat, etc.

— 43, 14 Ut in flumine publico navigare liceat.

— 43, 15 De ripa munienda.

— 43, 16 De vi et vi armata.

— 43, 17 Uti possidetis.

— 43, 21 De rivis.

— 43, 22 De fonte.

— 43, 23 De cloacis.

CODE, 2, 16 Ut nemo privatus titulos praediis, etc.

— 11, 43 (42) De aquaeductu.

— 11, 56 (55) Non licere metrocomiae habitatoribus loca sua ad extraneum transferre.

— 11, 61 (60) De pascuis publicis, etc.

— 11, 63 (62) De mancipiis et colonis, etc.

— 11, 68 (67) De agricolis, etc.

— 11, 71 (70) De locatione praediorum civilium, etc.

— 11, 72 (71) De conductoribus . . . praediorum, etc.

— 11, 73 (72) Quibus ad conductionem praediorum etc.

— 11, 74 (73) De collatione fundorum, etc.

— 11, 77 (76) De palatiis.

— 12, 44 (45) De litorum et itinerum custodia.

(c) **Post-Justinian:**

BAS. 54, 37 De theatris, etc.

— 55, 13 De diversis praediis . . . templorum et civitatum, etc.

— 58, 8 De locis et itineribus publicis, eorumque fructu et refectioe.

— 58, 16 *Nequid in flumine publico ripave . . . fiat, quo peius navigetur*, etc.

— 58, 19 *De . . . aquae-ductis*.

— 58, 22 *De cloacis*.

II. Modern references:—

HAGLUND, *The Roman law of municipal water supply and aqueduct service*, New Haven, 1914. (Parker Prize Essay, Yale Law School.)

HERSCHEL, *Frontinus and the water supply of the city of Rome*, New York, 1913.

MCNULTY, *Eminent domain in Continental Europe*, 21 *Yale Law Journal*, p. 555.

MOMMSEN, *Röm. Staatsrecht*⁸ (book iii, domains of the State), Leipzig, 1887–88.

— (Girard, transl.), *Droit public romain*, vol. vii, pp. 323–64, Paris, 1891.

OSSIG, *Röm. Wasserrecht*, Leipzig, 1898.

WARE, *Roman water law*, St. Paul, 1905.

III. See also *supra* “A” and *infra* “D”; *supra* § 995; vol. ii, §§ 560, 850.

D. The crown properties or (§ 1024) the Emperor's private domains and property.

I. Texts of Roman law:—

For English translations, see *supra* §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

COD. THEOD. 1, 11 *De officio comitis rei privatae*.

— 1, 17 *De officio rationalis summarum et rei privatae*.

— 5, 12 *De fundis patrimonial.*, etc.

— 5, 13 *De fundis rei saltibus divinae*.

— 5, 16 *De agricolis et mancipiis dominicis vel . . . rei privatae*.

— 6, 9 *De . . . comite sacrarum largitionum et rerum privatae*.

— 6, 30 *De palatinis sacrarum largitionum et rerum privatarum*.

— 7, 7 *De pascuis*.

— 10, 2 *De domibus ad rem privatum pertinent.*, etc.

— 10, 3 *De locatione fundorum*, etc.

— 10, 4 *De actoribus . . . rei privatae*.

— 10, 5 *Qui conductores rei privatae*, etc.

— 10, 6 *De grege dominico*.

- (§ 1024) — 10, 7 De Caesarianis.
 — 10, 9 De incorporatione.
 — 10, 25 De privilegiis
 domus Augustae.
 — 10, 26 De conductoribus
 et hominibus domus Augustae.
 — 11, 19 De collatione
 fundorum . . . rei privatae.
 NOV. THEOD. 5 De patrimonialibus rei dominicae.
 — 19 De rescind. vend.
 fundorum rei dominicae.

(b) **Justinian:**

- CODE, 1, 33 De officio comitis
 rerum privatarum.
 — 1, 34 De officio comitis
 sacri patrimonii.
 — 11, 61 (60) De pascuis,
 etc.
 — 11, 62 (61) De fundis
 patrimonial., etc.
 — 11, 64 (63) De fugitivis
 colonis, etc.
 — 11, 65 (64) De collatione
 fundorum, etc.
 CODE, 11 66 (65) De fundis
 rei privatae et saltibus
 divinae domus.
 — 11, 67 (66) De fundis
 et saltibus rei dominicae.
 — 11, 68 (67) De agricolis
 et mancipiis, etc.
 — 11, 69 (68) De praediis
 tamiacis, etc.
 — 11, 71 (70) De locatione
 praediorum, etc.

- 11, 72 (71) De conductoribus . . . praediorum
 . . . domus Augustae.
 — 11, 73 (72) Quibus ad
 conductionem praediorum,
 etc.
 — 11, 74 (73) De collatione
 fundorum, etc.
 — 11, 75 (74) De privilegiis
 domus Augustae, etc.
 — 11, 76 (75) De grege
 dominico.
 — 11, 77 (76) De palatiis.
 — 11, 78 (77) De cupressis
 ex luco Daphnensi . . .
 non excidendis.

- NOV. 52 Ut non fiant pignorationes pro aliis personis,
 etc.
 — 162 Sacra forma transmissa dominico, etc.

(c) **Post-Justinian:**

- BAS. 6, 31 De Palatinis et sanct. largitionum et rerum privatarum.
 — 50, 13 . . . Ne rei dominicae vindictio temporis praescriptione submoveatur.
 — 55, 10 De collatione fundorum patrimonial., etc.
 — 55, 14 De cupressis ex luco Daphnensi . . . non excidendis, etc.
 — 56, 15 De fundis et saltibus dominicis et rei privatae.

E. Mines and mining.**I. Texts of Roman law:—**

For English translations, see
supra §§ 945, 946, 948,
951, 952, 955.

(a) Ante-Justinian:

COD. THEOD. 1, 32 De procuratoribus . . . metallorum.
— 10, 19 De metallis et metallariis.

(b) Justinian:

CODE, 11, 7 (6) De metallariis et metallis, etc.

II. Modern references:—

BERGE, *Le régime légal des mines dans l'Afrique du Nord*, Paris, 1913.

CUQ, *Un règlement administratif sur l'exploitation des mines au temps d'Hadrien* (*Mélanges Gérardin*, pp. 87–134, Paris, 1907).

LABORDERIE, *Un contrat de travail dans les mines de Dacie au temps des Antonins*, 33 *Revue gén. du droit*, pp. 193–8.

MISPOULET, *Le régime des mines à l'époque romaine et au moyen-âge*, Paris, 1908.

F. The coinage.**I. Texts of Roman law:—**

For English translations, see
supra §§ 945, 946, 948,
951, 952, 955.

(b) Justinian:

(§ 1024)

CODE, 11, 11 (10) De veteris numismatis potestate.

EDICTA (in Appendix to NOV.), 11 Ut nullam copiam . . . et monetariam apud Egyptios . . . sed instar magnae hujus urbis signatum illic aurum fiat, etc.

(c) Post-Justinian:

BAS. 54, 18 De veterum nummorum potestate.

II. Modern references:—

HILL, *Historical Roman coins to reign of Augustus*, London.

SMITH, *Dictionary of Greek and Roman antiquities*³, vol. ii, "moneta", and also "tables of weight" (pp. 1005–8).

III. See also supra § 1023; vol. ii, § 917.**G. Post-roads.****I. Texts of Roman law:—**

For English translations see
supra §§ 945, 946, 948,
951, 952, 955.

(a) Ante-Justinian:

COD. THEOD. 6, 31 De stratoribus.

— 8, 5 De cursu publico, angariis, etc.

(§1024) COD. THEOD. 8, 6 De tractoriis et stativis.

— 9, 30 Quibus equorum usus concessus est aut denegatus.

(b) **Justinian:**

DIG. 43, 10 De via publica, etc.

CODE, 12, 24 (25) De stratoribus.

— 12, 50 (51) De cursu publico, angariis, etc.

— 12, 51 (52) De tractoriis et stativis.

(c) **Post-Justinian:**

BAS. 6, 30 De curatoribus cursus.

— 6, 32 De stratoribus, etc.

— 56, 17 De cursu publico, angariis, etc.

H. Public works.

I. Texts of Roman law:—

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) **Ante-Justinian:**

COD. THEOD. 15, 1 De operibus publicis.

(b) **Justinian:**

DIG. 50, 10 De operibus publicis.

CODE, 8 11 (12) De operibus publicis.

(c) **Post-Justinian:**

BAS. 54, 12 De operibus publicis.

— 58, 12 De operibus publicis, etc.

II. See also supra vol. ii, §913.

I. Public games.

I. Texts of Roman law:—

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) **Ante-Justinian:**

COD. THEOD. 15, 5 De spectaculis.

— 15, 6 De Maiuma.

— 15, 7 De scaenicis.

— 15, 9 De expensis ludorum.

— 15, 10 De equis curulibus.

— 15, 12 De gladiatoribus.

— 15, 13 De usu sellarum.

(b) **Justinian:**

CODE, 10, 54 (53) De athletis.

— 11, 41 (40) De spectaculis, etc.

— 11, 42 (41) De expensis publicorum ludorum.

— 11, 44 (43) De gladiatoribus penitus tollendis.

— 11, 46 (45) De Maiuma.

(c) **Post-Justinian:**

BAS. 54, 38 De expensis ludorum publicorum.

J. Annona (food supply).**I. Texts of Roman law:—**

For English translations, see
supra §§ 945, 946, 948, 951,
952, 955.

(a) Ante-Justinian:

PAULUS, Sent. 1, 20a.

COD. THEOD. 7, 4 De erogationis militaris annonae.

— 7, 5 De excoctione et translatione annonarum.

— 11, 1 De annona.

— 14, 15 De canone frumentario urbis Romae.

— 14, 16 De frumento urbis Constantinop.

— 14, 19 De pretio panis Ostiensis.

— 14, 20 De pretio piscis.

— 14, 24 De mensis cleariis.

— 14, 25 De frumento Karthaginiensi.

— 14, 26 De frumento Alexandrino.

(b) Justinian:

DIG. 48, 12 De lege Julia de annona.

CODE, 1, 44 De officio praefecti annonae.

— 1, 52 De annonis, etc.

— 10, 16 De annona, etc.

— 11, 23 (22) De canone frumentario urbis Romanae.

— 11, 24 (23) De frumentario urbis Constantinop.

— 11, 25 (24) De annonis civilibus.

— 28 (27) De frumento (§1024) Alexandrino.

— 12, 38 (39) De excoctione et translatione annonarum.

— 12, 39 (40) De militari veste.

Nov. 41 Lex ut bonis.

(c) Post-Justinian:

BAS. 54, 24 De canone frumentario urbis Romae.

— 54, 25 De frumento Constantinop.

— 54, 26 De annonis civilibus.

— 56, 8 De annonis, etc.

— 57, 4 De annona militari, etc.

— 60, 44 De lege Julia de annona.

II. See also infra "K"; supra vol. ii, §§ 898, 932.

K. Trade and commerce.**I. Texts of Roman law:—**

For English translations, see
supra §§ 945, 946, 948, 951,
952, 955.

(a) Ante-Justinian:

COD. THEOD. 10, 20 De murrilegulis, etc.

— 10, 21 De vestibus, etc.

— 10, 22 De fabricensibus.

— 10, 23 De classicis.

— 13, 5 De naviculariis.

— 13, 6 De praediis naviculariorum.

- (§1024) COD. THEOD. 13, 7 De navibus non excusandis.
 — 13, 8 Ne quid oneri publico imponatur.
 — 13, 9 De naufragiis.
 — 14, 21 De nautis Tiberinis.
 — 14, 22 De saccariis Portus Romae.
 NOV. MARJORIAN. 8 De reddito jure armorum.
 NOV. THEOD. 8 De navibus ultra duorum milium modiorum capacitatem non excusandis.
 NOV. VALENTINIAN. 24 De negotiatoribus.
 — 29 De naviculariis amnicis.
 — 34 De praediis pistoriis, etc.
- (b) **Justinian:**
 DIG. 50, 11 De nundinis.
 CODE, 4, 41 Quae res exportari non debeant.
 — 4, 55 Si servus exportandus veneat.
 — 4, 59 De monopoliiis, etc.
 — 4, 60 De nundinis.
 — 4, 63 De commerciis et mercatoribus.
 — 6, 62 De hereditatibus . . . naviculariorum, etc.
 — 11, 2 (1) De naviculariis, etc.
 — 11, 3 (2) De praediis naviculariorum.
- 11, 4 (3) De navibus non excusandis.
 — 11, 5 (4) Ne quid oneri publico imponatur.
 — 11, 6 (5) De naufragiis.
 — 11, 8 (7) De murilegulis, etc.
 — 11, 10 (9) De fabricensibus.
 — 11, 16 (15) De pistoribus.
 — 11, 17 (16) De suariis.
 — 11, 26 (25) De mendicantibus. validis.
 — 11, 27 (26) De nautis Tiberinis.
 NOV. 43 De ergasteriis Constantinop., etc.
 — 85 De armis.
 — 122 Edictum de constitutione artificum.
- (c) **Post-Justinian:**
 BAS. 6, 34 De equitis dignitate, etc.
 — 19, 7 De servis exportandis, etc.
 — 19, 18 De monopoliiis, etc.
 — 53, 6 De piscatoribus, etc.
 — 53, 7 De emtione et venditione vini.
 — 54, 16 De purpura Imperatoris, etc.
 — 54, 17 De fabricensibus.
 — 54, 20 De suariis, etc.
 — 54, 27 De mercantibus validis.

BAS. 57, 9 De armis eorum confectione, etc.

— 59, 4 De officinis Constantinop., etc.

II. See also supra "J"; §1010.

L. Sumptuary laws.

I. Texts of Roman law:—

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

COD. THEOD. 14, 10 De habitu, qui uti oportet intra urbem.

(b) Justinian:

CODE, 11, 9 (8) De vestibus holoveris et curatis, etc.

— 11, 12 (11) Nulli licere in frenis et equitibus sellis et in balteas margaritas, etc.

M. Education.

I. Texts of Roman law:—

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

COD. THEOD. 6, 13 De comitibus et tribunis scholarum.

— 6, 21 De professoribus, qui in urbe Constantinop. docentes ex lege, etc.

— 13, 3 De medicis et professoribus.

— 14, 9 De studiis liberalibus urbis Romae et Constantinop.

Nov. THEOD. 21 De scholaribus, etc.

(b) Justinian:

CODE, 10, 53 (52) De professoribus et medicis.

— 11, 19 (18) De studiis liberalibus urbis Romae et Constantinop.

— 12, 11 De comitibus et tribunis scholarum.

— 12, 29 (30) De privilegiis scholarum.

(c) Post-Justinian:

BAS. 6, 26 De . . . professoribus.

II. See also supra § 954; vol. i, §§ 154–65.

N. Libraries.

WILLEMS, *Droit public romain*,⁷ p. 448.

Military law: references.

§ 1025

I. Texts of Roman law:—

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

PAUL. Sent. 5, 31 De poenis militum.

- (§ 1025) COD. THEOD. 1, 14 De officio
praefect. Augustalis.
— 5, 6 De bonis militum.
— 6, 6 De . . . magistris
militum, etc.
— 6, 7 De . . . magistris
militum, etc.
— 6, 14 De comitibus rei
militaris.
— 6, 25 De praepositis la-
barum.
— 6, 33 De decanis.
— 6, 34 De mensionibus.
— 6, 35 De privilegiis
eorum qui in sacro palatio
militarunt.
— 6, 36 De castrensi . . .
palatinorum peculio.
— 7, 1 De re militari.
— 7, 2 Quid . . . ad mili-
tiam, etc.
— 7, 3 Quis in gradu prae-
feratur.
— 7, 4 De . . . militaris
annonae.
— 7, 5 De . . . transla-
tione annonarum.
— 7, 6 De militari veste.
— 7, 8 De metatis.
— 7, 9 De satgamo hospiti-
bus, etc.
— 7, 10 Ne quis in palatiis
maneat.
— 7, 11 Ne comitibus et
tribunis lavacra, etc.
— 7, 12 De commeatu.
— 7, 13 De tironibus.
— 7, 14 De burgariis.
— 7, 15 De terris limitaneis.
— 7, 16 De litorum et itin-
erum custodia.
— 7, 17 De lusoriis danu-
vii.
— 7, 18 De desertoribus et
occultatoribus eorum.
— 7, 19 De saturianis . . .
et occultatoribus eorum.
— 7, 20 De veteranis.
— 7, 21 De testimonial. ex-
tribunis, etc.
— 7, 22 De filiis militarium
. . . et veteranorum.
— 7, 23 De oblatione
equorum.
— 7, 24 De oblatione vo-
torum.
— 8, 4 De cohortal., etc.
— 11, 18 Qui a praebitione
tironum et equorum excu-
sentur.
— 11, 25 De quadrimen-
struis brevibus.
— 12, 15 De centurionibus.
— 14, 11 Quibus militan-
tibus ad urbem non liceat
accedere.
— 15, 3 De itinere munien-
do.
— 15, 15 Quibus armorum
usus interdictus est.
NOV. MARJORIAN. 8 De red-
dito jure armorum.
NOV. THEOD. 4 Duciani, etc.
— 7 De amota militaribus
forci praescriptione.
— 24 De ambitu et locis
limitaneis, etc.
— 25 De metatis.

- NOV. VALENTINIAN. 5 De pantapolis ad urbem Romam, etc.
- 6 De tironibus et occultatoribus eorum.
- 9 De reddito jure armorum.
- 20 De corporatis urbis Romae qui ad militiam, etc.
- (b) **Justinian:**
- INST. 2, 11 De militari testamento.
- DIG. 37, 13 De . . . testamento militis.
- 38, 12 De veteranorum et militum successione.
- 43, 15 De ripa munienda.
- 49, 16 De re militari.
- 49, 18 De veteranis.
- CODE, 1, 29 De officio magistri militum.
- 1, 46 De officio judicum militarium.
- 1, 47 Ne comitibus rei militaris, etc.
- 1, 48 Ut . . . militares judices, etc.
- 2, 51 (52) De restitutione militum qui rei publicae causa afuerunt.
- 3, 25 In quibus causis militantes fore praescriptione uti non possunt.
- 5, 65 De excusatione veteranorum.
- 10, 55 (54) De his qui non implendis stipendiis, etc.
- 10, 56 (55) Quibus muneribus excusantur ii, qui post impletam militiam, etc.
- 11, 13 (12) De classicis.
- 11, 47 (46) Ut armorum usus inscio principe interdictus sit.
- 11, 60 (59) De fundis, etc.
- 12, 12 De comitibus rei militaris.
- 12, 18 De praepositis labarum.
- 12, 28 (29) De privilegiis eorum qui in sacro palatio militant.
- 12, 30 (31) De castrensi . . . palatinorum peculio.
- 12, 33 (34) Qui militare possunt vel non, etc.
- 12, 34 (35) Negotiatores ne militent.
- 12, 35 (36) De re militari.
- 12, 36 (37) De castrensi peculio militum, etc.
- 12, 37 (38) De . . . militaris annonae.
- 12, 38 (39) De . . . translatione militarium annonarum.
- 12, 39 (40) De militari veste.
- 12, 40 (41) De metatis.
- 12, 41 (42) De salgamo hospitibus, etc.
- 12, 42 (43) De comeatu.
- 12, 43 (44) De tironibus.

- (§1025) CODE, 12, 44 (45) De litorum et itinerum custodia.
 — 12, 45 (46) De desertoribus et occultatoribus eorum.
 — 12, 46 (47) De veteranis.
 — 12, 47 (48) De filiis militarium, etc.
 — 12, 48 (49) De oblatione votorum.
 — 12, 49 (50) De . . . exceptoribus . . . iudicum . . . militarium.
 — 12, 57 (58) De cohortal., etc.
 Nov. 85 De armis.
 — 116 Ut neque miles, etc.
 — 130 Quomodo oporteat milites transitum in civitatibus facere et de introitu.

(c) **Post-Justinian:**

- THEOPHILUS, 2, 11 De militari testamento.
 ECLOGA, 16 De . . . castrensibus militum, etc.
 — 18 De partione spoliiorum.
 PROCHIRON, 40 De partitione spoliiorum.
 BAS. 6, 33 De . . . privilegiis eorum qui in sacro palatio militant.
 — 6, 35 De . . . exceptoribus . . . iudicum . . . militarium.
 — 10, 33 De restitutione militum et eorum, qui rei publicae absunt.

- BAS. 25, 6 Quomodo . . . militiae pignori, etc.
 — 35, 21 De testamento militis.
 — 55, 6 De fundis, etc.
 — 56, 16 De militari veste.
 — 57, 1 De re militari et de fugitivis, etc.
 — 57, 2 De castrensibus peculiis.
 — 57, 3 De restitutione militiae.
 — 57, 5 De metatis, etc.
 — 57, 6 De veteranis, etc.
 — 57, 7 De filiis officialium, etc.
 — 57, 8 De militibus, etc.
 — 57, 9 De armis eorumque confectione et ne liceat arma facere et a privatis ea emere.
 HEXABIBLOS, 1, 16 De militibus.
 — 6, 8 De transfugis, etc.

II. Modern references: —

- BRAY, *Essai sur le droit pénal militaire des romains*, Paris, 1894.
 BRISSAUD (Garner, transl.), *Hist. of French public law*, (vol. ix, *Continental Legal Hist. Series*, p. 33, Boston, 1915).
 MARQUARDT, *Röm. Staatsverwaltung*.², Leipzig, 1881-5.

MARQUARDT (French translation by BRISSAUD), *De l'organisation militaire chez les romains*, Paris, 1891.

MOMMSEN, *Röm. Staatsrecht*³, Leipzig, 1887-8. (Book iii on war.)

— (French transl. by GIRARD), *Droit public*

romain, vol. vii, pp. 275-322.¹

SMITH, *Dictionary of Greek and Roman antiquities*³, vol. i, "exercitus."

WILLEMS, *Droit public romain*⁷, pp. 557 et seq.

III. See also supra §§ 1020-23; vol. ii, §§ 915, 940.

Ecclesiastical law: references.

§ 1026

I. Texts of Roman law: —

For English translations, see supra §§ 945, 946, 948, 951, 952, 955.

(a) Ante-Justinian:

XII TABLES, x; xii, 1.

PAUL. Sent. 1, 21 De sepulchris.

COD. THEOD. 1, 27 De episcopali definitione.

— 5, 3 De clericorum et monachorum.

— 9, 25 De raptu vel matrimonio sanctimonialium virginum, etc.

— 9, 45 De his qui ad ecclesias confugiunt.

— 15, 4 De imaginibus imperialibus.

— 15, 5 De spectaculis.

— 15, 7 De scaenicis.

— 16, 1 De fide catholica.

— 16, 2 De episcopis, ecclesiis et clericis.

— 16, 3 De monachis.

— 16, 4 De his qui super religione contendunt.

— 16, 5 De haereticis.

— 16, 6 Ne sanctum baptismum iteretur.

— 16, 7 De apostatis.

— 16, 8 De Judaeis, caelicis et Samaritanis.

— 16, 9 Ne Christianum mancipium Judaeus habeat.

— 16, 10 De paganis, sacrificiis et templis.

— 16, 11 De religione.

CONST. SIRMUNDIAN. (in appendix to COD. THEOD.), 1-4, 6-16.

NOV. MAJORIAN. 6 De sanctimonialibus vel viduis, etc.

— 10 Neque . . . ecclesiam, etc.

— 11 De episcopali iudicio, etc.

NOV. THEOD. 3 De Judaeis, Samaritanis, haereticis et paganis.

¹ SHERMAN, Charles P., *The modernness of Roman military law* (Wig-

- (§1026) NOV. VALENTINIAN. 3 De succession. curial. qui ad clericatum transierunt.
 — 10 Neque . . . ecclesiam, etc.
 — 17 De episcoporum ordinatione.
 — 18 De Manichaeis.
 — 35 De episcopali iudicio, etc.
- (b) **Justinian:**
 DIG. 11, 7 De religiosis, etc.
 — 11, 8 De mortuo . . . et sepulchro, etc.
 — 43, 6 Ne quid in loco sacro fiat.
 — 50, 12 De pollicitationibus.
 CODE, 1, 1 De summa trinitate et de fide catholica.
 — 1, 2 De sacrosanct. ecclesiis et . . . privilegiis earum.
 — 1, 3 De episcopis et clericis et orphanotrophis, etc.
 — 1, 4 De episcopali audentia, etc.
 — 1, 5 De haereticis et Manichaeis et Samaritis.
 — 1, 6 Ne sanctum baptismum iteretur.
 — 1, 7 De apostatis.
 — 1, 8 Nemini licere signum salvatoris Christi vel in silice vel in marmore aut sculpere aut pingere.
 — 1, 9 De Judaeis et caelicolis.
 — 1, 10 Ne Christianum mancipium haereticus vel paganus vel Judaeus habeat, etc.
 — 1, 11 De paganis sacrificiis et templis.
 — 1, 12 De his qui ad ecclesias confugiunt, etc.
 — 1, 13 De his qui in ecclesiis manumittentur.
 — 3, 43 De alcae lusu et aleatoribus.
 NOV. 3 Ut determinatus sit numerus clericorum sanct. majoris ecclesiae et ceterarum sanct. ecclesiarum Constantinop.
 — 5 De monachis.
 — 6 Quomodo oporteat episcopos et reliquos clericos ad ordinationem deduci, etc.
 — 7 De non alienandis aut permutandis ecclesiasticis rebus . . . aut in . . . hypothecam dandis, etc.
 — 9 Ut ecclesia Romana centum annorum habeat praescriptionem.
 — 11 De privilegiis archiepiscopi primae Justinianae.
 — 16 De mensura ordinandorum clericorum.
 — 37 De Africana ecclesia.
 — 40 Ut ecclesia sanctae resurrectionis possit alienare habitacula, etc.

- 42 De depositione Anthimi, etc.
- 43 . . . Ut mille centum ergasteria majoris ecclesiae (Constantinop.) excusentur, etc.
- 45 Ut haeretici curiales et munia impleant, etc.
- 46 De ecclesiasticarum immobilium rerum alienatione et solutione.
- 54 Constitutionem quae ex adscripticio et libera natos esse liberos vult, etc.
- 55 Ut de cetero commutatione ecclesiasticarum rerum, etc.
- 56 Ut ea quae vocantur insinuativa super clericis, etc.
- Ut clerici, . . . et ut si quis aedificans ecclesiam . . . probatione sanctissimi patriarchae, etc.
- 58 Ut in privatis domibus sacra mysteria non fiant.
- 59 De expensis quae fiunt circa defunctorum exequias.
- 65 De alienatione rerum ecclesiae Mysiae relictarum pro captivorum redemptione, etc.
- 67 Ut nullus fabricet oratorii domum praeter voluntatem episcopi, etc.
- 76 Haec constitutio interpretatur prior const. de his qui ingrediuntur in monasterium et de substantiis eorum, etc.
- 77 Ut . . . neque blasphematur in Deum.
- 79 Apud quas oporteat causam dicere monachos et ascetrias.
- 81 Constitutio quae dignitatibus et episcopatu liberat filium patria potestate.
- 83 Ut clerici apud proprios episcopos primum conveniantur et post haec apud civiles iudices.
- 86 Ut differentes iudices audire interpellantium allegationes cogantur ab episcopis hoc agere, etc.
- 109 De privilegiis dotis haereticis mulieribus non praestandis.
- 111 Haec constitutio innovat const. quae praescriptionem centum annorum locis venerabilibus dederat.
- 120 De alienatione emphyteosi et locatione et hypothecis . . . rerum sacrarium.
- 123 De sanctissimis . . . episcopis et clericis et monachis.
- 129 De Samaritis.
- 132 De interdictis collectis haereticorum.

- (§1026) Nov. 133 Quomodo oportet monachos vivere.
- 137 De creatione episcoporum et clericorum.
- 144 De Samaritis.
- 146 Ut liceat Hebrais, etc.
- 149 Ut praesides provinciarum gratis fiant ex supplicatione deo carissimorum episcoporum, etc.
- CONST. DISPERSAE (in second appendix to Nov.), 2-3 Jussio Justiniani imperatoris pro privilegio concilii Byzaceni.
- EDICTA (in first appendix to Nov.), 1.
- 2 Ne praesides in fiscalibus asyli jus dent.
- 12 De Hellesponto.
- (c) **Post-Justinian:**
- PROCHIRON, 24 De testamento episcoporum, etc.
- 28 De ordinatione episcoporum et presbyterorum.
- EPANAGOGA, 3 De patriarcha.
- 8 De episcopo ejusque ordinatione et nominatione.
- 9 De episcopis et presbyteris, etc.
- BAS. 1, 1 De summa trinitate et fide catholica, etc.
- 3, 1 De episcopis et clericis, et ordinatione et privilegiis eorum.
- 3, 2 De numero clericorum magnae ecclesiae Constantinop. definiendo.
- 3, 3 De clericis ex una ecclesia in alteram transferendis, etc.
- 3, 4 De clericis, qui a sua ecclesia discedunt, etc.
- 4, 1 De monasteriis et monachis et ascetis, etc.
- 5, 1 De ecclesiis et monasteriis, etc.
- 5, 2 De alienatione et emphyteusi rerum ecclesiasticarum.
- 5, 3 De ecclesiasticis canonibus et privilegiis eorum.
- 6, 22 Ut praesides interpellantis jura audire cunctantes ab episcopis id facere cogantur, etc.
- 31, 5 Constitutio, quae per dignitates et episcopatum filios patriae potestate liberat.
- 58, 15 Ne quid in loco sacro fiat.
- 59, 1 De monumentis et sumtu funerum.
- 59, 3 De funere et sumtibus funerum.
- 59, 4 . . . Ut mille et centum officinae magnae ecclesiae (Constantinop.) . . . excusentur, etc.
- 60, 58 De raptore virginum . . . sanctimonialium.

HEXABIBLOS, 2, 5 De muneribus, etc.

— 2, 9 De iis qui confugium quaerunt.

— 4, 5 De civile matrimonii rigore.

— 5, 4 De testamento episcoporum et monachorum.

— 6, 11 De Judaeis, paganizantibus et haereticis.

— (appendix, 4) De ordinatione episcoporum et presbyterorum.

II. Modern references:—

BOYD, The ecclesiastical edicts of the Theodosian Code, New York, 1905.

JUSTER, Les Juifs dans l'empire romain, leur condition juridique, etc., 2 vols., Paris, 1913.

— La condition légale des Juifs sous les rois visigoths (in *Études d'hist. jurid. off.* à P. F. Girard, vol. ii, pp. 275-336, Paris, 1913).

MAITLAND, The corporation sole (Collected papers, vol. iii, pp. 210-44, Cambridge, 1911).

MARQUARDT, Röm. Staatsverwaltung,² Leipzig, 1881-5.

— (French transl. by BRIS-(\$1026) SAUD), Le culte chez les romains, 2 vols., Paris, 1889-90.

MOMMSEN, Röm. Staatsrecht³, Leipzig, 1887-88. (book iii on religion).

— (French transl. by GIRARD), Droit public romain, vol. vii, pp. 250-65, Paris, 1891.

PERNICE, Röm. Sacralrechte, Berlin, 1911.

SALEILLES, Les "Piae causae" dans le droit de Justinien (*Mélanges Gérardin*, pp. 513-51, Paris, 1907).

— L'organisation juridique des premières communautés chrétiennes (*Mélanges P. F. Girard*, vol. ii, pp. 469-509, Paris, 1912).

WILLEMS, Droit public romain⁷, p. 283, Louvain, 1910.

III. See also supra § 1023; vol. ii, §§ 466, 492, 903, 933, 940; vol. i, §§ 116-19, 144-53, 174, 225-30.

PART II

BIBLIOGRAPHY OF ROMAN LAW

PART II

BIBLIOGRAPHY OF ROMAN LAW

List of Roman law treatises; books containing texts of § 1027 Roman law. This is a list of the principal works (mostly modern) — treatises and texts — on Roman law. Although care has been exercised to give the latest editions of the books listed, it is not claimed that the editions given are always the latest. For magazine articles on Roman law and also for books incidentally treating of Roman law, see *supra* §§ 941–1026.¹

- ABDY and WALKER, Gaius and Ulpian³ (English translation), Cambridge, 1885.
- Institutes of Justinian, (English translation), Cambridge, 1876.
- ACCARIAS, Précis de droit romain⁴, 2 vols., Paris, 1886–91.
- ALLARD, Le christianisme et l'empire romain, Paris, 1897.
- AMOS, Roman law, London, 1883.
- APPLETON, Les interpolations dans les Pandectes, Paris, 1894.
- ARNDTS, Pandekten¹⁴, Stuttgart, 1889.
- (The above work has been translated into Italian by SERAFINI), Trattato di Pandette⁴, 1882.
- ARNOLD, Roman provincial administration³, Oxford, 1914.²
- BARHAM, Students' text-book of Roman law, London, 1903.
- BARON, Geschichte des röm. Rechts (vol. i, Institutionen und Civilprozess), Berlin, 1882.
- BARON, Pandekten⁹, Leipzig, 1896.
- BASILICA of Leo VI, see *supra* § 955.
- BEKKER, System d. Pandektenrechts, 2 vols., Weimar, 1886–90.
- BERNARD, La première année de droit romain, Paris, 1901.

¹ ABBOTT and JOHNSON, Municipal administration in the Roman Empire.

- (§ 1027) — (The above work has been translated into English by SHERMAN), *First year of Roman law*, New York, 1906.
- *La deuxième année de droit romain*, Paris, 1901.
- *La première et la deuxième année, etc.*, combinée, Paris, 1909.
- BERTOLINI, *Appunti didattici di diritto romano*, 4 vols., Turin, 1905.
- BETHMANN-HOLLWEG, *Der röm. Civilprozess*, 3 vols., Bonn, 1864–66.
- *Der germanische-romanische Civilprozess im Mittelalter*, 3 vols., Bonn, 1868–74.
- BIENER, *Geschichte der Novellen Justinian's*, Berlin, 1824.¹
- BÖCKING, *Pandekten*, Bonn and Leipzig, 1853–55.
- BONFANTE, *Istituzioni di diritto romano*,⁸ Milan, 1925.²
- BONJEAN, *Traité des actions ou exposition hist. de l'organisation judiciaire et de la procédure civile chez les romains*², Paris, 1845.
- BORGHESI, *Les préfets de Rome (praefecti urbis Romae)*, Paris, 1884.
- *Les préfets du prétoire; d'Auguste à Constantin— depuis Constantin*, 2 vols., Paris, 1897.
- ¹ BIONDI-BIONDI, *Corso di istituzioni di diritto romano*, vol. i, Catania, 1929.
- ² BONFANTE, *Storia del diritto rom.*,³ 2 vols., 1923 (Translated into French, *Histoire du droit rom.*, 1928).
- ³ BUCKLAND, *Manual of Roman Private Law*, Cambridge, 1925.
- *Main Institutions of Roman Private Law*, Cambridge, 1931.
- *Textbook of Roman Law from Augustus to Justinian*,⁴ Cambridge, 1932.
- and McNAIR, *Roman law and Common Law*, Cambridge, 1936.
- BOTSFORD, *Roman assemblies*, New York, 1900.
- BOWYER, *Modern Civil Law*, London, 1848.
- *Introduction to the Civil Law*, London, 1874.
- BOYD, *The ecclesiastical edicts of the Theodosian code*, New York, 1905.
- BRAY, *Essai sur le droit pénal militaire des romains*, Paris, 1894.
- BREMER, *Jurisprudentia ante-Hadriana*, 2 vols., Leipzig, 1896–1901.
- BRINZ, *Pandekten*², Erlangen, 1886.
- BRISSON or BRISSONIUS (ed. HEINECCIUS), *De verborum quae ad jus civile pertinent significatione*, Magdeburg, 1743.
- BRUGI, *Istituzioni di diritto privato Giustiniano*², 1911.
- BRUNS, *Fontes juris romani antiqui*⁷, Tübingen, 1909.
- BRUNS and SACHAU, *Syrisch.-Röm. Rechtsbuch aus dem fünften Jahrhundert*, Leipzig, 1880.
- BRY, *Principes de droit romain*, Paris, 1907.
- BUCKLAND, *Elementary principles of Roman private law*, Cambridge, 1912.
- *The Roman law of slavery*, Cambridge, 1908.³

- BUCKLER, Origin and history of contract in Roman law down to the end of the Republican period, London, 1895.
- BULLETTINO dell'istituto di diritto romano, Rome, 1888 to date.
- CALLIGAS, System of Roman law, 5 vols. (in Greek).
- CAMPBELL, Compendium of Roman law², London, 1892.
- CANCIANI, Barbarorum leges antiqui, 5 vols., Venice, 1781-92.
- CAPOBIANCO, Il diritto penale di Roma, Florence, 1893.
- CHAMIER, Manual of Roman law, London, 1893.
- CICOGNA, Consilium principis — consistorium, Turin, 1902.
- CLARK, Roman private law: sources, Cambridge, 1906.
- Roman private law: jurisprudence, 2 vols., Cambridge, 1914.
- COD. GREGORIAN., see supra § 951.
- COD. HERMOGENIAN., see supra § 951.
- COD. THEOD., see supra § 951.
- CODE of Justinian, see supra § 952.
- COLL. MOSAIC. ET ROMAN., see supra § 951.¹
- COLLINET, Études historiques sur le droit de Justinien, vol. i, Paris, 1912.²
- COLQUHOUN, Summary of the Roman Civil Law, 3 vols., 1849-60.
- CONRAT, Geschichte der Quellen des röm. Rechts, Leipzig, 1891.³
- CORPUS INSCRIPTIONUM GRAECARUM, Berlin, 4 vols., 1828-77.
- CORPUS INSCRIPTIONUM LATIN., 1863 et seq., Berlin.
- CORPUS JURIS CANONICI, see supra § 963.
- CORPUS JURIS CIVILIS, see supra § 952 (text and translations).
- COSTA, Papiniano—Studio di storia interna di diritto romano,² 4 vols. Bologna, 1925.
- CREMIEU, La justice privée: son évolution dans la procédure romaine, Paris, 1908.
- CROMER, Ancient and modern imperialism, London, 1910.
- CUQ, Institutions juridiques des romains, 2 vols., Paris, 1891-1902.⁴
- CZYHLARZ, Institutionen d. röm. Rechts,¹⁸ Vienna and Prague, 1924.
- D'ARNIS, Lexicon manuale ad scriptores mediae et infirmæ Latinitatis, Paris, 1890.

¹ COGLIOLO, Manuale delle fonti del diritto romano,⁹ Turin, 1911.

² COLLINET, vol. ii, 1925; vol. iv, 1932.

³ CORBETT, Roman Law of Marriage, Oxford, 1930.

⁴ CUQ, Manuel de droit romain,⁵ vol. ii, 1917.

- (§1027) DE COULANGES, *La cité antique; étude sur le culte, le droit, les institutions de la Grèce et de Rome*¹⁸, Paris, 1903.
- (The above work has been transl. into English by SMALL, Boston, 1874.)¹
- DE VILLIERS, *Roman and Roman-Dutch law of injuries*, London, 1899.²
- DERNBERG, *Pandekten*, 3 vols., Berlin, 1894–1903 (vol. i, 7th ed., 1902; vol. ii, 7th ed., 1903; vol. iii, 5th ed., 1894).
- DESJARDINS, *Traité du vol spécialement dans le droit romain*, Paris, 1881.
- DIDIER-PAILHE, *Cours élémentaire de droit romain*⁴, Paris, 1895.
- DIGEST of Justinian, see supra § 952.
- DIRKSEN, *Manuale Latinitatis fontium juris civilis*, Berlin, 1837.
- DOMAT, *Les lois civiles dans leur ordre naturel*, 2 vols., Paris, 1689–1777.
- (The above work has been transl. into English by STRAHAN, ed. CUSHING), *The Civil Law in its natural order*, Boston, 1860.
- DUCAURROY, *Les instituts de Justinien nouvellement expliqués*⁸, 3 vols., Paris, 1851.
- ¹ DE FRANCISCI, *Storia del diritto romano*, vol. i, 1926; vol. ii, part 1, 1929.
- ² DE ZULUETA, *Vacarius, Liber Pauperum*, vol. 27, Selden Soc. Pub., London, 1927.
- DECLAREUIL (trans. by PARKER), *Rome the law-giver*, New York, 1926.
- DUCK, *De usu et auctoritate juris civilis, etc.*, London, 1653.
- (The part which relates to England has been transl. into English by BEAVER, London, 1724.)
- DURANDO, *Il tabellionato o notario nelli leggi romane, etc.*, Turin, 1897.
- ECKERT, *Pandekten-Practicum, Chrestomathie*, Heidelberg, 1853.
- ECLOGA of Leo the Isaurian, see supra § 955.
- EDICT of the Praetor, see supra § 946.
- ELLIOTT, *Outlines of Roman and constitutional law*, London, 1897.
- EPANAGOGA, see supra § 955.
- ESMEIN, *Mélanges, etc.*, Paris 1886.
- *Un traité de droit syro-romain au cinquième siècle*, Paris, 1880.
- EVANS, *Roman law studies in Livy*, New York, 1909.
- FERRINI, *Institutionum graeca paraphrasis Theophilo, etc.* (Greek text with Latin translation), Berlin, 1897.
- *Manuale di Pandette*², 1904.
- FERRINI and MERCATI, *Basilicorum libri LX, vol. vii supplementum*, Leipzig, 1897.

- FITTING, *Institutionen*, Leipzig, 1895.
- FLACH, *Études critiques sur l'hist. du droit romain au moyen-âge*, Paris, 1890.
- FROMMELT, *Regulae juris*³, Leipzig, 1890.
- GAIUS, see *supra* § 948.
- GAVET, *Sources de l'histoire*, etc., Paris, 1899.
- GÉRARDIN, *Mélanges*, Paris, 1907.
- GIRARD, *Études*, etc., 2 vols., Paris, 1913.
- *Hist. de l'organisation judiciaire des romains*, Paris 1901.
- *Manuel élémentaire de droit romain*,⁸ Paris, 1929.
- (The above work — an earlier French edition — has been translated into German by MAYR), *Geschichte u. System d. röm. Rechts*, Berlin, 1898.
- (The above work has been translated into Italian in 1909.)
- (A part of the above work has been translated into English by LEFROY and CAMERON), *A short history of Roman law*, Toronto, 1906.
- *Mélanges*, etc., 2 vols., Paris, 1912.
- *Textes de droit romain*,⁵ Paris, 1923.
- GLUCK, *Ausführliche Erläuterung der Pandekten*, Erlangen, 1797 to date (over 40 vols.).
- (An Italian translation of this work is in preparation.)
- GODEFROY or GOTHOFREDUS (ed.), *Codex Theodosianus*, 6 vols., Leipzig, 1736–45.
- GOODWIN, *The Twelve Tables*, London, 1886.
- GOUDY, *Trichotomy in Roman law*, Oxford, 1910.
- GOUDSMIT (English transl. by GOULD), *Pandects*, London, 1873.
- GRADENWITZ, *Interpolationen in den Pandekten*, Berlin, 1887.¹
- GRAPEL, *Sources of Roman Civil Law*, Philadelphia, 1857.
- GREENE, *Outlines of Roman law*⁴, London, 1884.
- GREENIDGE, *Infamia*, Oxford, 1894.
- *Legal procedure in Cicero's time*, Oxford, 1894.
- GRELLET-DUMAZIEU, *Le barreau romain*, Paris, 1851.
- GRUEBER, *The lex Aquilia: the Roman law of damage to property*, Oxford, 1886.
- GÜTERBOCK (transl. into English by COXE), *Bracton and his relation to Roman law*, London, 1886.

¹GRADENWITZ, *Heidelberger Index zum Theodosius*, Berlin, 1925.

- (§ 1027) HADLEY, Introduction to Roman law,² New Haven, 1931.
- HAENEL (ed.), Codices Theodos., Gregorian., Hermogenian., 1842 (appendix, 1844).
- (ed.), Corpus legum, Leipzig, 1855. (Ante-Justinian statutes not found in Cod. Theod. or other ante-Justinian codes.)
- (ed.), Juliani epitome Latina novellarum, Leipzig, 1873.
- (ed.), Lex Romana Visigothorum, Leipzig, 1849.
- HAGLUND, The Roman law of municipal water-supply and aqueduct service, New Haven, 1914 (Parker Prize Essay, Yale Law School).
- HALLIFAX, Roman Civil Law⁵, London, 1836.
- HARDY, Six Roman laws, Oxford, 1911.
- HARRIS, Elements of Roman law², London, 1890.
- Inst. of Justinian transl. into English³, Oxford, 1811.
- HARVEY, Digest of the Roman law of contract, London, 1878.
- HEILFRON and PICK, Röm. Rechtsgeschichte, etc., Berlin, 1905.
- HEIMBACH (ed.), Basilicorum libri LX, 6 vols., 1833–70. (See also supra FER-
RINI and MERCATI.)
- (ed.), Harmenopuli manuale legum sive Hexabiblos, Leipzig, 1851.
- HEINECCIUS, Elementa juris civilis, Halle, 1785.
- (The above work has been translated into French by BERTHELOT), Éléments du droit civil, 4 vols., Paris, 1812.
- (The above work has been translated into Spanish by COLLANTES, revised by SALV^A), Recitaciones del derecho civil, 2 vols., Paris, 1841.
- HERSCHEL, Frontinus and the water-supply of the city of Rome, New York, 1913.
- HERZOG, Geschichte d. röm. Staatsverfassung, Leipzig, 1884.
- HESS, Achtzehn Civilrechtsfälle, Coburg, 1874.
- HEUMANN, Handlexikon zu den Quellen des röm. Rechts⁹, Jena, 1907.
- HEXABIBLOS, see supra HEIMBACH and § 955.
- HOLLAND, Inst. of Justinian edited as a recension of the Inst. of Gaius², Oxford, 1881.
- HOLLAND and SHADWELL, Select titles from the Digest, Oxford.

- HOLTZENDORFF, *Encycl. d. Rechtswissenschaft*⁶, 1904.
- HOWE, *Studies in the Civil Law*², Boston, 1905.
- HRUZA, *Geschichte des griech. u. röm. Familienrechts*, Leipzig, 1892.
- HUGO, *Rechtsgeschichte*, etc., Berlin, 1832.
- (The above work has been translated into French by JOURDAN, Brussels, 1840.)
- HUNTER, *A systematic and historical exposition of Roman law in the order of a code*⁴, London, 1903.
- *Introduction to Roman law*⁶, London, 1909.
- (The above work, 4th edition, has been translated into Spanish), *Sumario de derecho romano*, Madrid.
- HUSCHKE, *Jurisprudentiae ante-Justinianae*⁵, 5 vols., Leipzig, 1886 (vol. i, 6th ed., 1908).¹
- IHERING, *Der Geist des röm. Rechts*⁵, 4 vols., Leipzig, 1894-99.
- (The above work—3d German edition of 1873—has been translated into French by MEULENAERE), *L'esprit du droit romain dans les diverses phases*³, 4 vols., Paris, 1886-88.
- *Études complémentaires de l'esprit du droit romain*, (§ 1027) 5 vols., Paris, 1903.
- (The above work—3d edition of 1873—has been translated into Spanish by SATORRES), *El espíritu del derecho romano en las diversas fases*, 4 vols., Madrid 1892.
- *Grund des Besitzes-schutzes*³, Jena, 1886.
- (The above work—2d German edition of 1869—has been translated into French by MEULENAERE), *Du fondement de la protect. possession.*, Ghent, 1875.
- *Schuldmoment im röm. Privatrecht*, Giessen, 1867.
- (The above work has been translated into French by MEULENAERE), *De la faute en droit privé*, Paris, 1880.
- (MEULENAERE, transl.), *Des lésions injurieuses en droit romain*, etc., Paris, 1888.
- (HUSIK, transl.), *Law as a means to an end* (Modern Legal Philosophy Series, vol. v, Boston, 1913).²
- INSTITUTES of Justinian, see supra § 952.
- of Theophilus, see supra § 955.
- IRVING, *Introduction to the study of the Civil Law*⁴, London, 1837.

¹ HUVELIN, *Cours élémentaire de droit romain*, 1927.

² INDEX INTERPOLATIONUM quae in Justiniani Digestis (ed. MITTEIS), cura (LEVY et RABEL), vol. i, Weimar, 1926.

- (§1027) JHERING, see *supra* Ihering.¹
- JOUSSEANDOT, Des assesseurs près des tribunaux romains, Paris, 1887.
- L'édit perpétuel restitué et commenté, 2 vols., Geneva, 1884.
- KALINDERO, Droit prétorien et réponses des prudents, Paris, 1885.
- KARLOWA, Röm. Rechtsgeschichte, 2 vols., Leipzig, 1885-1902.
- KELKE, Epitome of Roman law, London, 1901.
- A primer of Roman law, London, 1912.
- KELLER, Röm. Civilprozess z. Zeit d. Legis Actionen⁶, Leipzig, 1883.
- (The above work — 3d German edition of 1863 — has been translated into French by CAPMAS), De la procédure civile et des actions chez les romains, Paris, 1870.
- KELLY, Essentials of the Roman civil law, being a selection of titles from the Pandects of Justinian translated into English, Chicago, 1904.
- KIPP, Geschichte der Quellen des röm. Rechts,⁴ 1919.²
- KROLL, see *infra* MOMMSEN, KRUEGER, SCHOELL, KROLL.
- KRUEGER, Geschichte der Quellen und Litteratur des röm. Rechts², Munich and Leipzig, 1912.
- (The above work — 1st edition of 1888 — has been translated into French by BRISSAUD), Histoire des sources du droit romain, Paris, 1894.
- (The above work — 1st edition of 1888 — has been translated into Spanish), Historia, fuentes y literatura del derecho romano, Madrid, 1899.
- see *infra* MOMMSEN, KRUEGER, SCHOELL, KROLL.
- KRUEGER, MOMMSEN, and STUEDEMUND (ed.), Collection librorum juris ante-Justiniani, Berlin, (vol. i, Gaius⁵, 1905; vol. ii, Ulpiani libri sing. regularum, Pauli libri quinque sententiarum, fragmenta minora, 1878; vol. iii, Fragm. Vaticana, Coll. Mosaic. et Rom., Consultatio, Cod. Gregorian. et Hermogenian., Alia minora, 1895).
- KUHLENBECK, Entwicklungsgeschichte des röm. Rechts, 2 vols., Munich, 1913.
- LABOULAYE, Essai sur les lois criminelles des romains, Paris, 1845.
- ¹ JOLOWICZ, Historical introduction to the study of Roman Law, Cambridge, 1932.
- ² KNIEP, Der Rechtsgelerhte Gaius, etc., 1910-17.
- KOHLER and WENGER, Recht der Griechen und Römer, 1914.
- KRELLER, Röm. Rechtsgeschichte, 1937.

- LAFERRIÈRE, *Hist. du droit civil de Rome et de droit français*, Paris, 1846.
- LAROMBIÈRE, *Théorie et pratique des obligations*, 5 vols., Paris, 1857.
- LEAGE, *Roman private law*², London, 1909.
- LEAPINGWELL, *Manual of Roman law*, Cambridge, 1859.
- LEFERRE, *Rôle des tribuns de la plèbe en procédure civile*, Paris, 1910.
- LENEL (ed.), *Edictum perpetuum*,³ Leipzig, 1923.
- (ed.), *Palingenesia juris civilis: jurisconsultorum reliquiae*, 2 vols., Leipzig, 1889.
- LEONHARD, *Institutionen d. röm. Rechts*, Leipzig, 1894.
- LINDLEY (transl. of part of THIBAUT, *Pandekten*), *Introduction to the study of jurisprudence*, London, 1855.
- LOBINGIER, *The evolution of the Civil Law*,² New York and Washington, 1923.¹
- MACKELDEY, *Lehrbuch d. röm. Rechts*¹⁴, Vienna, 1862.
- (The above work has been translated into English by DROPSIE), *Handbook of Roman law*, Philadelphia, 1883.
- (The above work — 12th (§1027) German edition — has been translated into French by BEVING), *Manuel de droit romain*, Brussels, 1846.
- (Part of the above work — 12th German edition — has been translated into English by KAUFFMAN), *Compendium of modern Civil Law*, London, 1845.
- MACKENZIE, *Roman law*⁷, London, 1898.
- MACKINTOSH, *Roman law of sale*², Edinburgh, 1907.
- MAREZOLL, *Institutionen d. röm. Rechts*, Leipzig, 1881.
- (The above work — an earlier German edition — has been translated into French by PELLAT), *Précis d'un cours sur l'ensemble du droit privé des romains*², Paris, 1852.
- (The above work — an earlier German edition — has been translated into Italian by POLIGNANI), *Trattato delle istituzioni del diritto romano*, Naples, 1866.
- MARQUARDT and MOMMSEN, *Handb. d. röm. Alterthümer*, 9 vols., Leipzig, 1876–88.
- ¹ MACINTOSH, *Roman Law in modern practice*, Edinburgh, 1936.

- (§1027) — (The above work has been translated into French by GIRARD, WEISS and LOUIS-LUCAS, VIGIE, BRISAUD, HENRY), *Manuel des antiquités romaines*, 15 vols., Paris, 1888–96.
- MARQUARDT (see supra MARQUARDT and MOMMSEN), *Röm. Staatsverwaltung*², Leipzig, 1881–85.
- (The above work has been translated into French), WEISS and LOUIS-LUCAS, *Organisation de l'empire romain*, 2 vols., Paris, 1889–92; VIGIE, *De l'organisation financière chez les romains*, Paris, 1888; BRISAUD, *De l'organisation militaire chez les romains*, Paris, 1891; BRISAUD, *Le culte chez les romains*, 2 vols., Paris, 1889–90.
- (see supra MARQUARDT and MOMMSEN), *Privatleben d. Römer*², 2 vols., Leipzig, 1886.
- (The above work has been translated into French by HENRY), *La vie privée des romains*, 2 vols., Paris, 1892–93.
- MATTINGLY, *The imperial civil service of Rome*, Cambridge, 1910.
- MAY, *Éléments de droit romain*¹⁰, Paris, 1909.
- MAYNZ, *Cours de droit romain*⁴, 3 vols., Brussels, 1877.
- *Obligations en droit romain*, Paris, 1859.¹
- MEARS, *Inst. of Gaius and Justinian*, London, 1882.
- MEYER, see infra MOMMSEN and MEYER.
- MEYSENBERG, *De Christianae religionis vi et effectui in jus civile*, Göttingen, 1828.
- MINUTILLO, *Istituzioni di diritto romano*, Naples, 1896.
- MISPOULET, *Le régime des mines à l'époque romaine etc.*, Paris, 1908.
- MITTEIS, *Röm. Privatrecht bis auf die Zeit Diokletian's*, vol. i, 1908.
- *Reichsrecht und Volksrecht in den öst. Provinzen des röm. Kaiserreichs*, Leipzig, 1891, 1936.
- MITTEIS-WILCKEN, *Grundzüge und Chrestomathie der Papyruskunde*, vol. ii, Leipzig, 1912.
- MOMMSEN (see supra MARQUARDT and MOMMSEN), *Röm. Staatsrecht*³, 5 vols., Leipzig, 1887–88.
- (The above work has been translated into French by GIRARD), *Le droit public romain*, 8 vols., Paris, 1889–95.

¹ MAYR, *Vocabularium Codicis Iustiniani* (ed. SAN NICCOLO), in two parts, Prague, 1923, 1925.

- (The above work has been translated into Spanish by DORADO), *Compendio del derecho público romano*, Madrid, 1899.
- *Röm. Strafrecht*, 3 vols., Leipzig, 1899.
- (The above work has been translated into French by DUQUESNE), *Le droit pénal romain*, 3 vols., Paris, 1907.
- see *supra* KRUEGER, MOMMSEN, and STUDEMUND.
- MOMMSEN, KRUEGER, SCHOELL, and KROLL (ed.), *Corpus juris civilis*, 3 vols., 1880–1908 (vol. i, *Institutiones and Digesta*¹¹, 1908); vol. ii, *Codex Justinianus*⁸, 1906; vol. iii, *NOVELLAE*, 1800–1895).
- MOMMSEN and MEYER (ed.), *Theodosiani libri xvi cum constitution. Sirmondian.*, 3 vols., Berlin, 1895.
- MONRO, *The Digest of Justinian*, 2 vols., Cambridge, 1904–09. (An Eng. transl. of the Digest as far as book 16.)
- MOREY, *Outlines of Roman law*², New York, 1914.
- MORRIS, *Hist. of the development of law*, Washington, 1909.
- MORTREUIL, *Hist. du droit byzantin depuis le mort de Justinien jusqu'à la prise de Constantinople en 1453*, 3 vols., Paris, 1843–6.
- MOYLE (ed.), *Imperatoris Justiniani institutiones*, 5th ed., Oxford, 1913 (commonly referred to as MOYLE, *Inst.* vol. i, 5th ed.).
- *Inst. of Justinian*⁴, Oxford, 1906 (commonly referred to as MOYLE, *Inst.* vol. ii, 4th ed.).
- *Contract of sale*, Oxford, 1892.
- MUIRHEAD, *Historical introduction to the private law of Rome*², London, 1899.
- (The above work — 1st English edition — has been translated into French by BOURCART, Paris, 1889.
- (The above work — 1st English edition — has been translated into Italian by GADDI), *Storia del diritto romano della origine a Giustiniano*, Milan, 1888.
- (ed. and transl.), *Institutes of Gaius and Rules of Ulpian*, Edinburgh, 1880.
- MUNTER, *Sumario de derecho romano*, Madrid, 1895.
- NADLI (ed.), *Corpus juris canonici*, 2 vols., London, 1661. (Vol. ii contains the *Institutes of Lancelotti*.)
- NASMYTH, *Hist. of Roman law*, London, 1890.

- (§1027) NOAILLES, Les collections de nouvelles de l'empereur Justinien, Paris, 1912.
- NOVELS, see *supra* a § 952.
- NOVELS of Marcian, Majorian, Severus, Theodosius, Valentinian, see *supra* § 951.
- NOVELS of Leo VI (the Leonine Constitutions), see *supra* § 176, note.
- ORTOLAN, Législation romaine: I, Histoire¹², Paris, 1884; II and III, Explication hist. des Instituts¹², Paris, 1883-84.
- ORTOLAN (The above work — I — has been translated into English by PRICHARD and NASMITH), History of Roman law² (Cutler's ed.), London, 1896.
- Analysis of Ortolan by MEARS, London, 1876.
- OSSIG, Röm. Wasserrecht, Leipzig, 1898.¹
- PAIS, Storia di Roma, 1898.
- PAULUS, Sententiae, see *supra* § 948.
- PERNICE, Marcus Antistius Labeo — röm. Privatrecht im 1en Jahrhundert der Kaiserzeit², 2 vols., Halle, 1895-1900.
- Röm. Sacralrechte, Berlin, 1911.
- PEROZZI, Istituzioni di diritto romano,² Florence, 1928.
- ¹ PACCHONI, Corso di diritto romano,² 3 vols., 1928.
- PETIT, Traité élémentaire de droit romain⁷, Paris, 1913.
- PHILLIMORE, Study of the Civil and Canon Law, etc., London, 1843.
- Private law among the Romans, London, 1863.
- PHILLIPSON, The international law and custom of ancient Greece and Rome, 2 vols., London, 1911.
- PIERANTONI, Gli avvocati di Roma antica, Bologna, 1900.
- PINÉLÈS, Questions de droit romain étudiées d'après la nouvelle méthode hist. du droit comparé, Paris, 1911.
- PITOIS, Principes de droit romain⁴, Paris, 1908.
- PLATON, Les banquiers dans la législation de Justinien; Paris, 1912.
- POSTE (ed. and translator), Gai institutiones juris civilis⁴, Oxford, 1904.
- POTHIER, Traité des obligations², Paris, 1861.
- (The above work — 1st French edition — has been translated into English by EVANS), Obligations, 2 vols., Philadelphia, 1826.
- Pandectae Justinianae in novum ordinem digestae, cum legibus codicis, et novellis, quae jus pandectarum confirmant, explicant aut abrogant, 5 vols., Paris, 1818-20.

- (The above work has been translated into French by BRÉARD-NEUVILLE), *Pandectes de Justinien*, 23 vols., Paris, 1818-23.
- (TUDOR, transl.), *Partnership*, London.
- (CUSHING, transl.), *Sale*, Boston, 1839.
- POTTS, *Summary of the Inst. of Gaius*, London, 1907.¹
- PRAETOR'S Edict, see supra § 946.
- PROCHIRON, see supra § 955.
- PUCHTA, *Kursus der Institutionen*¹⁰, Leipzig, 1893.
- *Pandekten*¹², Leipzig, 1877.
- QUARITSCH, *Institutionen- und Rechtsgeschichte, Compendium*⁷, Berlin, 1896.³
- RAMBAUD, *L'empire grec au dixième siècle*, Paris, 1870.
- *Explication élémentaire du droit romain*, 2 vols., Paris, 1893.
- RATTIGAN, *Roman law of persons*, London, 1873.
- REGELSBERGER, *Pandekten*, vol. i, Leipzig, 1893.
- REICHEL, *Complete manual of Canon Law*, London, 1896.
- REID, *The municipalities of the Roman Empire*, Cambridge, 1913.
- REITZ (ed.), *Theophili paraphrasis Justiniani Institutionum*, ed. Schrader, Amsterdam, 1823.
- (See also supra § 955, (§1027) "Theophilus.")
- RHALLIS, *Zwei unedirte Novellen d. Kaisers Alex. Kommenos*, Athens, 1898.
- RHOER, *Dissertatione de effectu religionis Christianae in jurisprudentiam Romanam*, Groningen, 1776.⁸
- RICHTER (ed.), *Corpus juris canonici*, ed. Friedberg, Leipzig, 1879-81.
- RIVIER, *Introduction historique au droit romain*², Brussels, 1881.
- ROBY, *Introduction to the study of Justinian's Digest*, Cambridge, 1886.
- *Roman private law in the times of Cicero and of the Antonines*, 2 vols., Cambridge, 1902.
- RUDORFF, *Röm. Rechtsgeschichte*, 2 vols., Leipzig, 1857-59.
- SACHAU, *Syrische Rechtsbücher*, 2 vols., Berlin, 1907.
- SAINT-PRIX, *Hist. du droit romain, suivie de l'histoire de Cujas*, Paris, 1821.
- SALKOWSKI, *Institutionen*⁷, Leipzig, 1898.
- (The above work — an earlier German edition — has been translated into English by WHITFIELD), *Institutes and history of Roman private law*, London, 1886.
- ¹ POUND (Roscoe), *Readings in Roman law and Civil law and Modern Codes as development thereof*, Cambridge, 1914.
- ² RADIN, *Handbook of Roman Law*, St. Paul, 1927.
- ³ RICCOBONO, *Dal diritto romano al diritto moderno*, Palermo, 1917.
- *Lezioni d'istituzioni del diritto romano*, 1907.
- *Studi in onore Salvatore Riccobono*, 4 vols., Palermo, 1936.

- (§ 1027) SANDERS (ed.), *Institutes of Justinian*, London, 1853 (a translation).
- SANDS, *The client princes of the Roman Empire*, Cambridge, 1906.
- SAVIGNY, *Geschichte des röm. Rechts im Mittelalter*², 7 vols., Heidelberg, 1834–51.
- (The above work — 1st edition — has been translated into French by GUENOUX), *Histoire du droit romain au moyen-âge*, 4 vols., Paris, 1839.
- (The above German work has been translated into Italian), *Storia del diritto romano nel Medio Evo*, 3 vols., Florence, 1846.
- (the above German work has been translated into Italian), *Trattati di giurisprudenza storica*, 2 vols., Verona, 1858.
- (Part of the above German work, vol. i, has been translated into English by CATHCART, Edinburgh, 1829.)
- *Das Obligationenrecht*, 2 vols., Berlin, 1851–53.
- (The above work has been translated into French by GÉRARDIN and JOZON), *Le droit des obligations*², 2 vols., Paris, 1873.
- (The above German work has been synoptically translated into English by BROWN), *Analysis and epitome of obligations*, London, 1872.
- *Das Recht des Besitzes*⁷, Vienna, 1865.
- (The above work has been translated into French by STAEDLER), *Traité de la possession*⁴, Paris, 1893.
- (The above work — 6th German edition — has been translated into English by PERRY), *Von Savigny's treatise on possession or the jus possessionis of the Civil Law*, London, 1848.
- (The above work — an early German edition — has been translated into Italian), *Il diritto del possesso*, Florence, 1839.
- *System d. röm. Rechts*, 8 vols., Leipzig and Berlin, 1840–49.
- (The above work has been translated into French by GUENOUX), *Traité de droit romain*², 8 vols., Paris, 1855–60.
- (The above German work has been translated into Italian by SCIALOJA), *Sistema del diritto romano attuale*, Turin, 1890.

- (Part of the above German work has been translated into English: vol. i and part of vol. ii, by HOLLOWAY, *System of modern Roman law*, Madras, 1867; rest of vol. ii, by RATTIGAN, *Jural persons or the Roman law of persons as subjects of jural relations*, London, 1884; vol. viii, by GUTHRIE, *Edinburgh*, 1869, 2d ed., 1880.
- SCHLOSSMANN, *Litis Contestatio* — *Studien zum röm. Zivilprozess*, Leipzig, 1905.
- SCHOELL, see supra MOMMSEN, KRUEGER, SCHOELL, and KROLL.
- SCHRADER (ed.), *Justiniani Institutiones* (text, also notes and commentary in Latin), Berlin, 1832.
- SCHULIN, *Geschichte d. röm. Rechts*, Stuttgart, 1889.
- SCHULTING, *Notae ad Digesta seu Pandectas* (in 8 parts), Leyden, 1804–35.¹
- SCHUNDLER, *Preparationen zu den Institutiones Justiniani*, Tübingen, 1911.
- SCRUTTON, *Influence of the Roman law on the law of England*, Cambridge, 1885.
- SERAFINI, *Il diritto pubblico romano*, Pisa, 1896.
- *Istituzioni di diritto romano*³, Florence, 1881.
- SESAN, *Kirche und Staat in röm.-byzantinisch. Reiche seit Konstantin dem Grossen und bis zum Falle Konstantinopels*, 1911.
- SHERMAN, Charles P., *The maritime law of Rome and some comparisons with modern jurisprudence*, New Haven, 1899.
- *First year of Roman law* (translation of the French BERNARD, supra), New York, 1906.
- *Roman law in the modern world*,³ 3 vols., N. Y., 1937.²
- SICILIANO-VILLANEUVA, *Diritto bizantino*, Milan, 1906.
- SMITH, *Dictionary of Greek and Roman antiquities*³, 2 vols., London, 1901. (See Roman law articles by Prof. Long.)
- SOHM, *Institutionen des röm. Rechts*,¹⁷ Munich, 1928.
- (The above work — 12th German edition — has been translated into English by LEDLIE), *Sohm's Institutes of Roman law*³, Oxford, 1907.
- SOKOLOWSKI, *System d. röm. Rechts*, vol. i, 8th ed., 1910.
- STAEDLER, *Cours de droit romain*, Louvain and Paris, 1902.
- STEPHENSON, *History of Roman law*, Boston, 1912.
- ¹ SCHULZ, *Einführung in das Studium de Digesten*, 1916.
- *Principles of Roman law*, Oxford, 1936.
- ² SHERMAN, *Epitome of Roman Law*, New York, 1937.

- (§1027) STRACHAN-DAVIDSON, Problems of the Roman criminal law, 2 vols., Oxford, 1912.¹
- STUEDEMUND, see supra KRUEGER, MOMMSEN, and STUEDEMUND.
- TAYLOR, Elements of the Civil Law⁴, London, 1828.
- THEOPHILUS, see supra § 955.
- THEVENOT-DESSAULES, Dictionnaire du Digeste, Paris, 1808.
- THIBAUT, Pandekten, Jena, 1846.
- (Part of the above work has been translated into English by LINDLEY), Introduction to the study of jurisprudence, London, 1855.
- THIBAUT, Les impôts directs sous le Bas-Empire romain, Paris, 1910.
- TOMKINS and JENCKEN, Compendium of modern Roman law, London, 1870.
- TRANSLATIONS of Roman law, see supra §§ 945, 946, 948, 951, 952, 955.
- TROLLEY, La lésion en droit romain et droit français, Paris, 1871.
- Sur la chose d'autrui, Paris, 1872.
- TUOR, Die Mors Litis im röm. Formulaverfahren, Leipzig, 1906.
- TWELVE TABLES, see supra § 945.
- ULPIAN, Regulae, see supra § 948.²
- VANGEROW, Pandekten⁷, 3 vols., Leipzig, 1865-69. (Reprinted 1875.)
- VAN WETTER, Les obligations en droit romain, Ghent, 1886.
- Pandectes contenant l'histoire du droit romain et la législation de Justinien, 5 vols., Paris, 1912.
- VATICAN FRAGMENTS, see supra § 951.
- VERDAILLE, Le barreau dans l'antiquité romaine, Bordeaux, 1873.
- VIDMAR, Introductio Corpus jurisutriusque, Vienna, 1886.³
- VOET, Commentarius ad Pandectas⁴, Paris, 1829.
- (Part of the above work has been translated as follows): WILSON, book xviii, Contract of sale, London, 1876, later edition 1897; BERWICK, book 13, title 7, books 18-21, Purchase and sale, letting and hiring, mortgages, evictions, warranty, London, 1902; HOSKYNS, Servitudes, London, 1879; INNES, Mandate and partnership, London, 1879; CHITTY, Vindications and interdicts, London, 1893; SOLOMON, Letting and hiring, London, 1880.

¹ STROUX, Summa ius summa iniuria, Leipzig, 1928.

² VACARIUS, Liber pauperum (ed. DE ZULUETA) vol. 27, Selden Soc. Pub., London, 1927.

³ VINOGRADOFF, Roman Law in Medieval Europe,³ Oxford, 1929.

⁴ VOCABULARIUM iurisprudentiae Rom. iussu inst. Savign. compos., Berlin, 1903-1936.

- VOIGT, *Röm. Rechtsgeschichte*, 3 vols., Leipzig, 1892-1902.¹
- WALTER, *Geschichte d. röm. Rechts*², Bonn, 1860.
- (LABOULAYE, transl.), *Hist. de la procédure civile chez les romains*, Paris, 1841.
- WALTON, *Historical introduction to the Roman law*², London, 1912.
- WALTZING, *Étude sur les corporations professionnelles chez les romains*, 4 vols., Louvain, 1895-1900.
- WARE, *Roman water law*, St. Paul, 1905.¹
- WILLEMS, *Le droit public romain*⁷, Louvain, 1910.²
- *Les elections municipales à Pompei*, Paris, 1886.
- WILLIAMS, *Institutes of Justinian illustrated by English law*², London, 1893.
- *Comparative Roman law*, 30 *Law Mag. and Rev.*, pp. 70-75, 149-58. (Valuable Roman law bibliography.)
- WILLIS and OLIVER, *Roman law examination guide*³, London, 1910.
- WINDSCHEID, *Pandekten*⁹, 3 vols., Frankfurt, 1906.
- (The above work — an earlier German edition — has been translated into Italian by BENSÀ and
- FADDA), *Diritto delle pandette*, 5 vols., Turin, 1902-5.²
- ZACHARIAE V. LINGENTHAL (ed.), *Collectio librorum juris Graeco-Romani in editorum*, Leipzig, 1852. (Contains "Ecloga Leonis et Constantini," and also "Epanagoge Basilii, Leonis et Alexandri".)
- *Geschichte des griechisch.-röm. Rechts*³, Berlin, 1892.
- (The above work — an earlier German edition — has been translated into French by LAUTH), *Histoire du droit privé gréco-romain*, Paris, 1870.
- (ed.), *Imperatorum Basilii, Constantini et Leonis Prochiron* (Greek text with Latin translation), Heidelberg, 1837.
- *Historiae juris Graeco-Romani delineatio*, Heidelberg, 1839.
- *Jus Graeco-Romanum*, 7 vols., Leipzig, 1856-84.
- ZACKE, *Criminalprozess d. röm. Republik*, Leipzig, 1871.
- ZOELLER, *Röm. Staats- und Rechtsaltertümer*, Breslau, 1894.
- ZUMPT, *Criminalrecht d. röm. Republik*, Berlin, 1869.
- *Criminalprozess d. röm. Republik*, Berlin, 1871.
- ¹ WENGER, *Inst. d. röm. Zivil Prozessrechts*, 1925.
- (trans. by SCHILLER), *Rom. Law of Civil Procedure*, New Orleans, 1931.
- *Der leut. stand. der röm. Rechtswissenschaft*, 1917.
- *Praetor und Formel*, Munich, 1926.
- ² WIGMORE, *Panorama of the world's legal systems*, 3 vols., St. Paul, 1928 (vol. i, Rome).
- ³ WLASSAK, *Studien* (vol. i, 1933).
- ⁴ YNTEMA and SCHILLER, *Source books of Roman Law*, Part 1, New York, 1929.

PART III

INDEX TO VOLS. I-III

INDEX

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

§ 1028 **Index.** The numbers refer to sections, and not to pages, of the volumes. When many references are given, the principal sections are indicated by an asterisk, *. The word "note" signifies a footnote. The Table of Contents in each volume is also a fairly complete index.

A

Abandonment, 633.
Abbreviations for the parts of Corpus Juris Civilis, 140.
Abduction, 925, 1023.
Abigei, 929, 1023.
Abolitio (discontinuance or withdrawal), 1023.
Abortion, 152, 822, 823, 922, 1023.
Absentees, 454, 456.
Absolutism, Roman, 120.
Absolver, 935.
Abu Bekr, 170.
Abyssinia, 186, 957.
Acceptilatio, 767, 1002, 1007.
 — *litteris*, 735.
 — *verbis*, 735.
Accession, 568, 574, *635-641, 997.
Accessory, 635.
Accident, 737, 755, 816, 1002.
Accord and satisfaction, 738.
Accorso, see *Accursius*.
Account of guardian, 517.
Accretion by survivorship, 691, 708.
Accursius, 213, 386.
Accusatio, 935, 937, 1035.
Acevedo, 300.
Acquisitio civilis, 626, note.
 — *naturalis*, 626, note.
 — *per universitatem*, 625, note; 661, note.
 — *singularum rerum*, 625, note.
Acquisition, aggregate, 661-723, 1000-1001.
Act of God, 737.
Acta intervenientia, 503, note; *659.
Acte authentique, 907.
Actio ad exhibendum, 824, note.
 — *ad supplendum*, 697, note.
 — *aedilicia*, 1010.

Actio aestimatoria, 780, note; *790, note; 1010.
 — *arborum furtim caesarum*, 792, note.
 — *commodati*, 757, note.
 — *commodati directa*, 757, note.
 — *communi dividundo*, 644, note; 795, note; 997, 1012.
 — *concepti*, 824, note.
 — *conducti*, 792, note; 1011.
 — *damni injuriæ*, 828, note.
 — *de dolo*, 830, note.
 — *de in rem verso*, 802, note; 992, 1013.
 — *de peculio*, 802, note; 992, 1013.
 — *de pecunia constituta*, 768, note.
 — *de rationibus distrahendis*, 517, note.
 — *depositi contraria*, 758, note.
 — *depositi directa*, 758, note.
 — *directa*, 839.
 — *empti*, 780, note; 1010.
 — *ex interdictu*, 122, note.
 — *ex stipulatu*, 767, note; 768, note; 780, note.
 — *exercitoria*, 802, note; 1013.
 — *familiae eriscundae*, 644, note; 668, note; 796, note; 997.
 — *fictitia*, 839, note.
 — *finium regundorum*, 644, note; 997.
 — *furti*, 517, note; 792, note; 795, note; 824, note; 1011.
 — *furti non exhibiti*, 824, note.
 — *hypothecaria*, 615, note.
 — *in factum*, 839.
 — *in factum praescriptis verbis*, 760, note.
 — *injuriarum*, 820, note.
 — *institoria*, 802, note; 1013.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Actio legis Aquiliae, 795, note; 828, note.
 — locati, 792, note; 1011.
 — mandati, 768, note.
 — mandati contraria, 800, note; 1013.
 — mandati directa, 800, note; 1013.
 — mutui, 755, note.
 — negotiorum gestorum contraria, 810, note.
 — noxalis, 1016.
 — pignoratitia, 996.
 — praescriptis verbis, 760, note; 761, note; 1006.
 — pro socio, 795, note; 1012.
 — prohibiti furti, 824, note.
 — Publiciana, 602, note.
 — Publiciana in rem, 998.
 — quanti minoris, 780, note; *790, note; 1010.
 — quasi Serviana, 615, note.
 — quod jussu, 802, note; 1013.
 — quod metus causa, 831, note.
 — recepticia, 768, note.
 — rehibitoria, 780, note; *790, 1010.
 — rescissoria, 449, note.
 — restitutoria, 449, note.
 — sacramenti, 842, 1018.
 — Serviana, 615, note.
 — tributoria, 802, note; 1013.
 — tutelae directa, 517, note.
 — utilis, 839.
 — utilis commodati contraria, 757, note.
 — utilis depositi directa, 758, note.
 — utilis in rem, 609, note.
 — utilis legis Aquiliae, 832, note.
 — venditi, 780, note; 1010.
 — vi bonorum raptorum, 826, note.
 Action, 838-839.
 — for breach of promise to marry, 459.
 — impetratio, 851, note.
 — mixed, 839.
 — personal, 839.
 — real, 839.
 Actiones, arbitrarie, 839.
 — bonae fidei, 839.
 — directae, 122, note.
 — fictitiae, 839, note.
 — in factum, 122, note.
 — in factum praescriptis verbis, 839, note.
 — in judicio, 122, note.
 Actiones in jus, 122, note.
 — legis, see Legis actiones.
 — poenae persecundae causa, 839.
 — rei persecundae causa, 839.
 — stricti juris, 839.
 — utiles, 122, note; 839, note.
 Actions, penal, 839.
 Actor, 554, *838, 912, note.
 Actresses, 462.
 Acts, juristic, 748.
 Actuary's tables, 806.
 Actuarius, 907, note.
 Addictio bonorum libertatis causa, 719.
 Addition, 637.
 Aditio hereditatis, *665, 666, 667, 930.
 Adjournments of court, 1019.
 Adjudicatio, 848.
 Adjudication, 584, 596, 618, 626, 627, *644, 758, *997.
 Adjunction, 640.
 Administrator, 662.
 Administrative law, 873-912, 1019-1022.
 Admiralty, 7, 21, 370, note; 380, 384, 399, 853.
 Admission, 867, 1018.
 Admonitio, 854.
 Adolescentes, 531, 993.
 Adoptio, 503-504, 991.
 — minus plena, 504, note.
 — plena, 504, note.
 Adoption, 463, 492, *496-504, 697, note; 700, 702, note; *991.
 Adpromissio, preceding 768, note.
 Adrogation, 501-502, 718, 991.
 Adsector, see Assessor.
 Adstipulatio, 767, note.
 Adulterating the coinage, 917, 1023.
 Adulteration of food, 936, note.
 Adultery, 152, 462, *922, 923, *1023.
 Adversaria, 776.
 Advice, 830.
 Advocate, 163, note; 855, 864, 866, *906, 914, 919, 935, 954, *1018, *1019.
 Advocati fisci, 906, 1019.
 Aedile, 41, 50, *878, 910.
 Aelius, 45, note.
 Aequitas, 65, 151, 379.
 Aerarium, 55, 939.
 Aes et libra, *570, 685, 735, 754.
 Aestimatum, 764, 1006.
 Affinity (affinitas), 466.
 Affreightment, 804, 1014.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Africa, 258.
- Africanus, 77.
- Agency, 552, *800-*802, 855, *1013.
- volunteer, 810, 1015.
- Agnates and agnation, *463, 506, 533, 671.
- Aguesseau, 251, 264, 274.
- Ager publicus, 939.
- Alabama, 309.
- Alaric II, 133, 143, 235, 280.
- Album, 60, 849.
- decurionum, 910.
- judicum, 881.
- Alcalá, 290, 295, 297.
- Alciat or Alciati, 241, *242, 324, 364, 386.
- Alcuin, 367, note.
- Alderney, 260, 966.
- Aleator, 1023.
- Aleatory contracts, 806.
- Alexander, Roman Emperor, 176, note.
- Alexander the Great, 25.
- Alexandria, law school of, 155, 187.
- Alexis I, 206, note.
- Alfonso VI, 284.
- Alfonso VIII, 284.
- Alfonso X, The Wise, 289-290, 291.
- Alfonso XIII, 305.
- Alfonso of Portugal, 276.
- Alfred the Great, 366.
- Algeria, 958.
- Alieni juris, 446, *457, 514, 992.
- Alimentatio, 939.
- Alimony, 491.
- Alluvion, 637, 997.
- Alsace-Lorraine, 336.
- Altercationes, 935, note.
- Althusius, 327.
- Alveus derelictus, 637.
- Amalfi, 373.
- Amalfian Tables, 214.
- Amanuenses, 907, note.
- Amasia, 906.
- Amasis, 17.
- Ambrose, Saint, 129.
- America, 258, 294.
- Central and South, 258.
- Latin, 278, note.
- North, 392.
- Spanish, 278, note.
- (United States), 309.
- American Declaration of Independence, 66.
- Law, 396, *413, note.
- Amica, 483.
- Amos, Sheldon, 404, note; 411.
- Ampliatio, 935, note.
- Anastasius, 169.
- Anatocismus, 755.
- Anatolius, 137, 169.
- Ancient Roman law, *416.
- Andalusia, 284.
- Androdamas, 23.
- Anglo-American law, 406, *413, note.
- Australian law, 406.
- Canadian law, 406.
- Indian law, 406.
- Saxon law, 366-367, 368.
- Saxons, 364-365, 982.
- Animals, 818, 1016.
- Animus manendi, 444.
- in possession, 579, 580.
- Anne, Russian Empress, 198.
- Annona, 898, 932, note; 939, 1019; 1024.
- Anonymus, Roman jurist, 169.
- Antecessor (professor), 74, note; 155, note; 906, note.
- Ante-Basilica Roman law, 418.
- Hadrian Roman law, 948.
- Justinian codes, 124-133, 951.
- Justinian Roman law, 235, 280, 339, 369, *416.
- Roman law, 16-25, 943.
- Anthemius, 128.
- Anthon, John, 412.
- Antichrèse, 617, note.
- Anticresi, 617, note.
- Antichresis, 617.
- Antidos, 479.
- Antiphrerna, 479, note.
- Antiqua, 176, note.
- Antiqui, 169.
- Apocha, 729.
- Apostates, 953.
- Apostoli, 870.
- Apparitor, 1018.
- Appeals, *870, 875, 880, 881, note; 882, *885, *894, 895, 896, 897, 898, 899, 901, *904, 934, note; 935, 937, 1018.
- to Rome, English canonical, 380, note.
- Appellatio, 885, 894. See also Appeals.
- Appert, 311.
- Appleton, 258, note.
- Appropriation of payments, 729.
- Aqueducts, 600, 908, 910, 939, 996, *1022, 1024.
- Aquilian stipulation, 767, note.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Aquilius Gallus, 53.
 Aquitaine, 239.
 Arabia, 170, 186.
 Aragon, 284.
 Arbiter, 849, 881.
 Arbitration, 740, 807, 836, 1002.
 Archbishops, Roman, 953.
 Archiatri, 747, note.
 Argentarii, 805, 863, note; 1014.
 Argenteae mensae exercitores, 805, note.
 Argentina, 308, note; 976.
 Argentinian law, 983-1018.
 Arguments of counsel, 866, 935.
 Aristides, 24.
 Aristo, 78.
 Aristotle, 187.
 Arizona, 309.
 Armenians, 191.
 Army, 1025.
 Arnaga, De, 300.
 Arnold, Matthew, 361.
 Arra, 782, 1010.
 Arrae sponsalitia, 459, 988.
 Arrieta, de, Spanish jurist, 297.
 Arrogation, see Adrogation.
 Arson, 928, 1023.
 As, 690.
 Ascendants, 675.
 Asia, 258.
 Asia Minor, 173.
 Assassination, 923.
 Assault, 820, 822, 823, *924, 1023.
 Assemblies, Roman legislative, 49.
 Assessor, 98, note; *884, *893, 1019.
 Assignation, 805.
 Assignee in bankruptcy or insolvency, 535.
 Assignment, 739, note; 805.
 Assize of novel disseisin, 850.
 Associations, burial, 543.
 — industrial, 541.
 — religious, 539.
 — social and mutual benefit, 543.
 Assumpsit, 811.
 Assyria, 16, 943.
 Asturias, 281.
 Asylum, 150, 174, 953.
 Athanasius, Roman jurist, 169.
 — Saint, 145, 186.
 Athens, 24.
 — law school of, 155
 Attaliata, Michael, 179.
 Attorney at law, 855.
 Auctoritas, of the Roman Senate, 114.

Audientia, 903, 1019.
 Auditorium, 894, 905.
 Augures, 910.
 Augustales, 910, 911, 1022.
 Augustin, Spanish jurist, 300.
 Augustine, Saint, 145, 365.
 Augustus, 55, 68, 80, 90, 113, 173, 208,
 322, 547, 712, 714, 845, 881,
 894, 896, 897.
 Aulus Gellius, 77.
 Aurelius, Marcus, 63, 130.
 Austin, John, 404.
 Australia, 398, 404, 406.
 Austria, 208, 223, *231-*232, 341, 342,
 356, 357, *964.
 Austrian law, 983-1018.
 Austria-Hungary, *231-232, 258, *964
 Austro-German War of 1866, 341.
 Authenticum, of Justinian's Novels,
 139.
 Auzay, 187.
 Average, general, 812, 1015.
 Avulsion, 637, 997.
 Azo, 213, 374.

B

Babylon, 16, 943.
 Bacon, Lord, 387, *390, 404.
 Baden, 336.
 Bail, 855.
 Bailments, 753.
 Balboa, Spanish jurist, 292.
 Balduinus, 241, note.
 Baldus, 219, 322.
 Baldwin, Simeon E., 412.
 Balearic Islands, 284.
 Balkan States, 195-200, 258.
 Ballot, 881, 935.
 Balsamon, Theodore, 180.
 Banishment, 452, note.
 Bankruptcy, 535, *716-*717, 744.
 Banks and banking, 776, note; *805,
 863, *1014.
 Baptism, 117, 462, 953.
 Baptist Churches, 963.
 Bar, Belgian, 969.
 — French, 965.
 — Roman, 70, 137, note; 163, 855,
 *906, 914, 919, 935, 1018, *1019.
 Barcelona, 214, 295.
 Baron, 355.
 Bartholomew, Saint, Massacre of, 246,
 384, note.
 Bartolist, 216, 243, 248, 386.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Bartolus, *219, 322, 386.
 Basil the Macedonian, 175, 176, 187.
 Basilica, 153, *176, 189, 194, 195, *955.
 — Roman law, 418.
 Basilicas (court-houses), 905.
 Basilides, 169.
 Bastard eigné, 493, note.
 Baths, public, 908.
 Baudouin, 241.
 Bavaria, 336, 341.
 Baviera, 224, note.
 Beauchet, 19.
 Beaumanoir, 374, note.
 Beccaria, 220.
 Bede, 367, note.
 Bégat, 248.
 Beirut, *see* Berytus.
 Bekker, 355.
 Beleña, 307.
 Belgian Bar, 969.
 Belgium, 265, 968.
 Belisarius, 143, 204.
 Bell, 360, 981.
 Bench, Roman, 906.
 Benedict XV, 230, note.
 Beneficium abstinendi, 666.
 — cedendarum actionum, 771, note.
 — competentiae, 716, note; 717, note.
 — discussionis, 770.
 — divisionis, 772, note.
 — excussionis, 770.
 — inventarii, 664.
 — ordinis, 770, note.
 — quinquennialium, 717, note.
 Benet, 311.
 Benignitas, 151.
 Bentham, Jeremy, 274, 404.
 Bertolini, 224, note.
 Berytus, law school of, 98, 108, 125, 135, 137, note; 155, 169, 187, 204, 954.
 Betrothal, 150, 459, 988.
 Beyer, 333.
 Bibliography of Roman law, 1027.
 Bigamy, 922, 1023.
 Bigot-Préameneu, 254.
 Bilbao, 301.
 Bill of lading, 786, note.
 Bills and notes, 777, note; 805.
 Bills of exchange, 805.
 Birds, 629, 997.
 Birth, 450, 987.
 Birthrate, 150.
 Birthright portion, 697.

Bishop, Roman, 148, 152, 514, 516, 864, note; 953, 1026.
 Bishop's courts, English, 230.
 — Roman, 149, 152, 903, 953, *1019, 1026.
 Bismarck, 341.
 Bithynian law, 86.
 Blackmail, 927, 1023.
 Blackstone, Sir William, 383, *395-396.
 Blastares, Matthew, 182.
 Blind, 688.
 Bluhme, 347.
 Bluhme's discovery, 137.
 Bluntschli, 357.
 Boccaccio, 219.
 Boccharis the Wise, 17.
 Böcking, 347.
 Boissonade, 311, 312.
 Bolivia, 308, note.
 Bologna, 210, 211.
 — law school of, 212, 213, note.
 — revival of Roman law, 200, 211-212.
 — — in Austria, 231.
 — — Belgium, 265.
 — — England, 369.
 — — France, 237.
 — — Germany, 321-323.
 — — Holland, 266.
 — — Portugal, 276.
 — — Scandinavian countries, 275.
 — — Scotland, 359.
 — — Spain, 287-288.
 — — Switzerland, 357.
 Bona adventicia, 477, 512, 584, note.
 — caduca, 677, 691, 1000, 1001, 1024.
 — defuncti, 662, note.
 — fides, 652.
 — materna, 512, 992, 1000.
 — paterna, 992.
 — profecticia, 509, note.
 — vacantia, 633, 677, 1000, 1024.
 Bonaparte, 255.
 Bonfante, 224, note.
 Boniface VIII, 228.
 Bonitary ownership, 573.
 Bonorum cessio, *see* Cessio bonorum.
 — collatio, 673, note.
 — confusio, 663.
 — distractio, *see* Distractio bonorum.
 — emptio, 716, 744.
 — emptor, 716.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Bonorum possessio, 551, note; *672, 1000.
 ——— possessor, 672.
 ——— separatio, see Separatio bonorum.
 ——— venditio, 716, 717, note; 744.
 ——— possessio contra tabulas, 696, note; 1000, 1001.
 ——— secundum tabulas, 696; note; 1000, 1001.
 Booty, 634.
 Bordeaux, 239.
 Bottomry, 756.
 Bouchard, 241.
 Boundaries, 644.
 Bourbon dynasty, Spanish, 298.
 Bousquet, 311.
 Bracton, 374, 389.
 Brazil, 258, note; 276, *278, 308, note; *974, 976.
 Breviary of Alaric II, *133, 143, 235, 280, *951.
 Bribery, 516.
 Brisson (Brissonius), 248.
 Britain, 363.
 British Empire, 259-262, 359-404, 411, 966, 970, 982.
 British Guiana, 271, 970.
 Britton, 376.
 Brokers, 800, note.
 Bruns, 354.
 Brutus, M. Junius, 53.
 Bryce, James, 6, 384, note; 411, 413.
 Budé (Budaëus), 242, note; 384.
 Bulgaria, 195, 960.
 Bulgarus, 213, note.
 Burden of proof, 860, 935.
 Burglary, 827, 929, 1023.
 Burgos, 301, note.
 Burgundy, 133, 239, 265, 266.
 Burning, 913.
 Bynkershoek, 266, 270, 274.
 Byzantium, 120.
 Byzantine Roman Empire, 121.
 ——— law, 187, 197, 955.
- C**
- Cadmus, 18.
 Caduca, 677, 691, 1000, 1001, 1024.
 Caesar, 121, 894, 1019.
 ——— Augustus, 55, 68, 90, 113, 173, 208, 322, 547, 712, 714, 845, 881, 894, 896, 897.
 ——— Julius, 53, 54, 81, 86, note; 124, 363, 547, 909.
 Caesarea, law school of, 155.
 Calabria, 206, note.
 Calatis comitiis, 683.
 California, 309, 310, note.
 Callistratus, 79, 859, note.
 Calocyus Sextus, 179.
 Calumny, 869, note; *919, 1023.
 Canada, 392, 404, 406.
 Cambridge, 369, 380, *384.
 Cancellarii, 907, note.
 Canon, 602, note.
 Canon Law, 149, 940, 1026.
 ——— eastern, see Canon Law, Greek.
 ——— Greek, 180, note; 182, 189, 197, 225.
 ——— Latin, 200, 215, *225-*230, 235, 253, 282, 292, 322, 323, 367, 371, 377, 380, *963.
 ——— western, see Canon Law, Latin.
 Canonical jurisdiction, 148.
 Canonists, 253, 292.
 Canterbury, 365.
 Cantonal law, Swiss, 357.
 Canute, 210, note; 365.
 Capacity, civil, 431.
 Capió, pignoris, 844.
 Capita, 675.
 Capital punishment, 174, 913.
 Capitatio terrena, 939, note.
 Capitulis deminutio, *432, 452, note; 484, note; 716, note.
 Capito, 74, *80, 154.
 Capitulations, Egyptian, 191.
 ——— Turkish, 189.
 Caracalla, 58, 98, 443, 548, 571, 573, 578, 669.
 Carausius, 363, note.
 Carbonianum edictum, 993.
 Care, 732.
 Carelessness, 832. See also Negligence.
 Carfania, 906.
 Carmer, von, 330, note.
 Carrier, common, 834, 1017.
 Carvajal, 292.
 Case books of Roman law, 76.
 Case system of teaching law, American, 165.
 Cases, their study in Roman law schools, 164-165.
 Cases treated, Acton v. Blundell, 600.
 ——— Cahoon v. Miers, 620.
 ——— Campbell v. Mesier, 600.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Cases treated. *Chesemore v. Richards*, 600.
 ——— *Coggs v. Bernard*, 800, 834.
 ——— *Effinger v. Lewis*, 422.
 ——— *Gifford v. Lord Yarborough*, 637.
 ——— *Hutson v. Jordan*, 853.
 ——— *McDonogh's Ex. v. Murdock*, 695, 706, note; 710, notes.
 ——— *Mors v. Slew*, 834.
 ——— *St. Clair v. Lovington*, 637.
 ——— *The C. B. Sanford*, 857.
Cassian school of Roman jurists, 74.
Cassius 74, 81.
Castella, 908.
Castile, 281, 284, 289, 290, 291, 295, 297, 305, 307.
Castrati, 461, note.
Casus fortuitus, 737, 1002.
Catalonia, 284.
Catherine, Russian Empress, 198.
Catholic faith, 148, 953.
Catholic University Law School, 412.
Cato, 710.
 ——— *The Younger*, 53.
Cattle-stealing, 929, 1023.
Caupones, 834, note; 1017.
Causa, 750, 1002.
Causidici, 906.
Cautio, 766, note; 768, *778, 1008, *1009, 1018.
 ——— *Muciana*, 705, note; 768, note; 1009.
Caveat emptor, 790.
 ——— *vendor*, 790.
Cavour, 223.
Celsus, 421.
 ——— *filius*, 57, 83.
 ——— *pater*, 82.
Censor, 55, 876, *888.
Census, *939, 1024.
Centesima rerum venalium, 780, note.
Centumviri, 879, *888.
Cessio actionum, 739.
 ——— *bonorum*, 716, note; *717, 744.
 ——— *in jure*, 584, 613, note; 626.
 ——— *hereditatis*, 722.
 ——— *nominum*, 739.
Cession des biens, 717.
Ceylon, 269, 398, 970.
Chaldaea, 16, 943.
Champerly, 906.
Chancellor, English, 379, 401.
Chancery, court of, 379, 382, 384, *387, 390, 393, 401.
Channel Islands (Europe), 260, 966.
Charitable foundations, 540.
Charlemagne, 208, 316, 317, 356, 367, note.
Charles I of England, 388.
Charles II of England, 388.
 ——— *of Spain*, 299.
 ——— *IV of Spain*, 303.
 ——— *V, medieval Roman Emperor*, 231, 296, 306.
Charles Martel, 283.
Charles the Bald (France), 235.
Charondas, 23.
Charta, Magna, 373.
Charterer, 804, 1014.
Chastity, 820, 822, 823.
Cheating, 830.
Cheques, 805.
Chicago Law School, 412.
Chief Justice of England, 401.
Child in utero, 450, 535, 675, note; 988, 1000.
Children, 450, 490, 493, 675, 702, 864, 939, 987.
 ——— *natural or illegitimate*, 493, 990.
 ——— *promiscuous*, 493.
Chile, 306, 308, note; 976.
Chilean law, 983-1018.
China, 992.
Chipman, Frank E., 374, note.
Chirographum, 777, 1009.
Chivalry, court of, 380, note.
Chosroës, 170.
Christian reconquest of Spain, 284, 293.
Christianity, 120, 186, 196, 225-230, 365, 482, 487, 488, 492, 493, 510, 923, 963, 1026.
 ——— *and Roman law*, 63, *144-*153, 174, *953.
 ——— *influence of Roman law on*, 116-119, 950.
Chumnu, Michael, 181.
Church, Baptist, 963.
 ——— *Congregational*, 963.
 ——— *Methodist Episcopal*, 963.
 ——— *Presbyterian*, 963.
 ——— *Protestant Episcopal*, 963.
 ——— *Roman Catholic*, 963.
 ——— *law, see Canon Law*.
Churches, 150, 559, 953.
Churchyards, 559.
Cicero, 37, 45, *53, 64, 413, 487, 906.
Cinus, 219.
Circuit of courts, 882.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Citatio, 854.
 Citation, mode of, as to Basilica, 176.
 — Corpus Juris Canonici, 228, note.
 — Corpus Juris Civilis, 141-142.
 — Justinian's Code, 136.
 — Digest or Pandects, 137.
 — Theodosian Code, 127.
 Cities, 908-912, 1022.
 Citizenship, 40, 44, 47, 58, 69, *441-444, 452, 880, *985.
 — Roman municipal, 910, 1022.
 City praetor, see Praetor urbanus.
 City prefect, see Praefectus urbi.
 Cives, 910, 1022.
 Civil capacity, 431.
 — death, *452, 514, 555, note; 585, 987.
 — Law, modern, 185.
 — Roman, 40.
 — Law, *419.
 — procedure, 835-872, 1018.
 — rights, 431, 433.
 Civilians, see Romanists.
 Civitates, 908, 1023.
 — foederatae, 909.
 Claim, 569.
 — preferred, 622, 624.
 Clark, 411.
 Classical Roman law, 57, 416.
 Clemens, 84.
 Clementia, 151.
 Cleopatra, 25.
 Clergy, 953, 1026.
 Clients (clientes), 438, 864, 906.
 Cloaca, 908, 1022.
 Cloacarium, 939, note.
 Clothaire I, 235.
 Clubs, 542.
 C. O. D., 786, note.
 Cobidas, 169.
 Coccej, von, 330, note; 335.
 Code or codes and codification,
 Alaric II, *133, 143, 235, *280, *951.
 — ante-Justinian, 124-133, 951.
 — American, 7, 402, *405-*410, 412, *982.
 — Anglo-Indian, 404, 406.
 — Argentinian, 308, note; 976.
 — Austrian, 222, *232, 337, 342, 357, *964.
 — Belgian, 265, 968.
 — Code, Bolivian, 308, note.
 — Brazilian, 278, 974.
 — British Empire, 404.
 — Bulgarian, 195, 960.
 — Californian, 309.
 — cantonal Swiss, 357.
 — Chilean, 308, note; 976.
 — civil, 254, note; 256.
 — Colombian, 308, note; 310.
 — Costa Rican, 308, note.
 — Cyprus, 190.
 — Danish, 275, 972.
 — Dutch, 267, 277, note; 969.
 — Ecuadorian, 308, note.
 — Egyptian, modern, 191, 958.
 — English, 390, 404, 982.
 — federal, 344, 358, 409.
 — Empire, 344.
 — Republic, 358, 406.
 — French, 15, 189, 191, 193, 194, 195, 199, 221, 224, 232, 243, 249, 250, 251, *254-*258, 261, 262, 264, 265, 267, 275, 277, 278, 304, 305, 308, 311-313, 336, 342, 344, 358, 404, 414, 557, 958.
 — German, 256, 326, 330, 331, 340, 341, 342, *343-*344, 346, 348, 358, 409.
 — Greek, modern, 194, 960.
 — Gregorian, 125, 129, 132, *133, 136, *951.
 — Guatemalan, 308, note; 976.
 — Haitian, 976.
 — Hammurabi, 16, 943.
 — Hermogenian, 87, 126, 129, 132, *133, 136, *951.
 — Honduras, 308, note.
 — Hungarian, 232.
 — in general, 982.
 — Indian, 192.
 — Italian, 224, 277, note; 962.
 — Japanese, 312-313, 344, 978.
 — Justinian, 127, note: *136, 153, 218, note; 369, *953, 994.
 — Louisiana, 264, 967.
 — Maltese, 193.
 — Manu, 17.
 — Marchand, 251, note.
 — Mexican, 308, note; 976.
 — Modern, 7, 15, 983-1018.
 — Montenegrin, 195, 960.
 — Napoleonic, see Code, French.
 — Nicaraguan, 308.
 — Norwegian, 275, 972.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Code, Paraguayan, 308, note.
 — Peruvian, 308, note; 976.
 — Portuguese, 277, 973.
 — Prussian, 330.
 — Quebec, 261.
 — Rohan, 193.
 — Roman, 53, 124-143, 952.
 — Roumanian, 195, 960.
 — Russian, 199, 961.
 — Salvador, 308, note.
 — Savary, 251, **note**.
 — Servian, 195, 960.
 — Spanish, 277, *304-*305, 308, *975.
 — — American, 308, 976.
 — Swedish, 275, 972.
 — Swiss, 344, *357-*358, 407, 409, *980.
 — Theodosian, 127, 132, *133, 136, 153, 354, *951, 994.
 — Turkish, 189, 190, 958.
 — United States, 404, note; *405-*410, 412.
 — Uruguayan, 308, note; 976.
 — Venezuelan, 308, note; 976.
 — Zurich, 357.
 Codex accepti et expensi, 776.
 Codicil, 705, note; 712, 713, *714-*715, *1001.
 Codicils confirmati, 714, note.
 — non confirmati, 714, note.
 Co-emptio, 472.
 Cognates and cognation, 462, 506, 672, 675, 1000.
 Cognitio, 892.
 — extra ordinem, 934, 936-937.
 Cognitor, 855, note; 1018.
 Coinage, 936, note; *917, 1023, 1024.
 Coke, Lord, 374, 383, 387, *389, 775.
 Colbert, 251, 938, note.
 Collatio (collation), 673, 1000.
 — dotis, 1000.
 — legum Mosaiicarum et Romanarum, 129, 951.
 Collegae, 548, note.
 Collegium, 544.
 Collaterals, 675.
 Colombia, 308, note; 310
 Coloniae, 908, 1022.
 — civium Romanorum, 909, 1022.
 Coloni, 440, 614, 624, note; 910, 1022.
 Colquhoun, 411.
 Columbia Law School, 412.
 Comes (count), 120, 890, 1019.
 — Orientis, 890, 1019.
 Comitia, 111, 886, 910.
 — centuriata, 31, 49, 875, 877, 880, 885.
 — curiata, 31, 49, 501, 683.
 — tributa, 49, 55, 114, note.
 Commentators, *216, 322, 335, 339.
 Commerce, Roman, 43.
 Commercial companies, 541.
 Commission, see Agency.
 Committee, 534.
 Commixtion or commixture, 638, 639.
 Commodatum, 757, 1003.
 Common carrier, 834, 1017.
 — Law, 217.
 — — American, 309.
 — — English, 368, 371, 374, note; 376, 378, 381, 382, 384, 385, *387, and note just previous to said section; 388, 390, 394-397, 401.
 — — German, 322.
 — — marriage, 475.
 — ownership, 796, 809.
 — property, 796, 1012.
 Commonitio, 854.
 Commons, Doctors', 384.
 Community system of marriage, 481.
 Companies, commercial, 541.
 Comparative law, 86.
 Compensatio, 741, *857, 1002.
 Complaint, see Libel.
 Comperendinatio, 935, notes.
 Compostels, De, 292.
 Compound interest, 755.
 Compromise, 738, 762, 1002.
 Compromissum, 740, 1002.
 Concepti vulgo, 492, 496, note.
 Concilium plebis, 49.
 Concordats, 217, note.
 Concubinage, 150, 466, note; *483, 492, *988.
 Condemno, 935.
 Condemnatio, 730, note; *848.
 Condemnation in metallum, 913.
 Conducticia ex lege, 809, note.
 Conductio, 767, note; 839, note; 843, 1018.
 — causa data causa non secuta, 760, note.
 — certi, 755, note; 776, note; 780 note.
 — ex mutuo, 755, note.
 — furtiva, 824, note; 1016.
 — indebiti, 811.
 Condition, impossible, 710.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Conditional sales, 781.
 Conductio, see Locatio et conductio.
 Confarreatio, 471.
 Confederation, Germanic, 337, 341.
 Confessio in iure, 867, 1018.
 Confiscated property, 939, 1024.
 Confusion, 639, 742, 1002.
 Congo Free State, 265, note.
 Congregational Churches, 963.
 Connan, 241.
 Connubium, 461-466.
 Conrad II, 210, note.
 Conring, 328.
 Consanguinity, 462-465.
 Consensus, contrarius, 735.
 Consent, in marriage, 468, 475, 487.
 Conservator, 534.
 Consideration, 750, 775, 1002.
 Consignatio, 734, 1002.
 Consignment, 786, note.
 Consilium (jury), 880, 881.
 — principis (Council of State), 894.
 Consistorium or consistory, Roman imperial council, 69, 92, 95, 107, *894, 915.
 Consolato del Mare, *214, 236, 251, 285, 320, 370.
 Conspiracy, 915.
 Constans II, 173.
 Constantine IV, 173.
 — V (Conpronimus), 174, note.
 — IX, 179.
 — XIII, 183, 197.
 — the Great, 120, 126, 145, *146, 208, 322, 363, 493, 512, 613, 621, 659, 896, 911, 913.
 — Roman jurist, 169.
 — Roman lawyer, 137, note.
 — of Nicaea, Roman jurist, 179.
 Constantinople, 120.
 — Latin conquest of, 183.
 — law school of, 135, 137, 139, 155, 169, 171, 175, 179, 204, 954.
 Constitutional law, 873-912, 1019-1022.
 Constitutio criminalis Carolina, 231, note; 337.
 — Theresiana, 231, note; 337, note.
 Constitutiones, 115, 124, 136, 184, 211, note; 403, note.
 — dispersae of Justinian, 952.
 — Leonine, 176, note.
 — pacis, 217, note.
 — Sirmondian, 127.
 Constituta pecunia, 768, note 807, 1008, 1014.
 Constitutum debiti, *807.
 — — alieni, 768, note; 807, note.
 — — proprii, 776, note; 807, note.
 — possessorium, 643.
 Consul, 514, *875, 885, *886, 945, *1019.
 — suffectus, 80.
 Consularis, 890, 1019.
 Consulado del mar, 285, 307.
 Consultatio, 894.
 — veteris cujusdam jurisconsulti, 132, 951.
 Contents, table of, 1028.
 Continental European law, 983-1018.
 Contius, 241, note; 242.
 Contracts, 7, 531, 552, 584, 596, 603, 618, 724-745, *746-*808, 912, *1002-*1014.
 — consensual, 779-803, 1010-1013.
 — literal, 775-778, 1009.
 — miscellaneous, 804-808, 1014.
 — real, 752-765, 1003-1006.
 — verbal, 766-774, 1007-1008.
 Contractus, preceding 746.
 Contribution (suretyship), 772.
 Contubernium, 466, note.
 Conventiones, preceding 746.
 Conventus (courts), 882, note.
 Conversion, 825.
 Cooper, Thomas, 412.
 Co-ownership, 796, 809.
 Coptic Church, 186.
 Copts, 191.
 Copyhold, 608.
 Cordova, 285, 294.
 Corporal punishment, 510, 511, 914.
 Corporate seal, 547, note.
 Corporatio, 544.
 Corporation sole, 548.
 Corporations, 7, 430, 454, note.
 — commercial and industrial, 541.
 — eleemosynary, 540.
 — municipal, 120, 538, 908-912, 1022.
 — private, 536-556, 805, 944.
 — public, 538, 547, 551.
 — religious, 539.
 Corporeal, 562.
 Corpses, 933, 1023.
 Corpus (corporation), 544.
 — (in possession), 579, 580.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Corpus Juris Canonici, 215, *226-
*230, *963.
- Juris Civilis, 135-143, 156, 204,
205, 207, 215, 216, 226-230,
247, 255, 270, 344, 353, *387,
*952.
- abbreviations for the parts
thereof, 140.
- modes of citation, 141-142.
- Oriental, particularly Greek,
influences on, 148.
- Fridericiani, 330, note.
- Correality, 727, 1002, 1003.
- Corrector, 890.
- Corrupt practices at elections, 546.
- Cortes, 306.
- Coruncanus, 45, 906.
- Costa Rica, 308, note.
- Costs, 870, note; *871, 1018.
- Council of the Emperor, Roman, 518.
- Indies, 306.
- Toledo, 280, note; 483,
note.
- Trent, 228, 282, 475, 483,
note.
- Counterfeiting, 917, 1023.
- Counter-performance, 760.
- Court of Session, 359.
- the Roman Emperor, 120.
- Courts, adjournments, 1019.
- postponements, 1019.
- Roman, 834, 840, 870, *874-
*905, 919, *1019.
- terms and recesses, 905, *1019.
- Covarrubias, 300.
- Cowell, John, 384, note.
- Cratinus, 169.
- Creditor, 726.
- Crete, 20, 943.
- Cretio, 551, note; *667.
- Crimen expilatae hereditatis, 930,
1023.
- falsi, 917, 920, note; 932, note;
1023.
- laesae majestatis, 915, 1023.
- sepulchri violati, 933, 1023.
- suspecti, 517, 993.
- Crimes against nature, 152, 922, 1023.
- religion, 933, 1023.
- Crimina, extraordinaria, 923, note;
930, note; 932, note; *936,
*937, *1023.
- publica, 936.
- Criminal law and crimes, 152, 174,
231, 553, 813, 822, 823, 825,
827, 829, 864, 879, 880, 881,
890, *892, 895, 896, 897, *902,
*913-*938, *1023, 1025.
- Criminal procedure, 923, note; 930,
note; 932, note; *934-*938.
- Criminis delatio, 935, note.
- Crown properties, 939, 1024.
- Crucifixion, 146, 913.
- Cuba, 306.
- Cujas (Cujacius), 219, note; 240,
241, 243, 244, *245, 300, 386.
- Culpa, *732, 757, 815, *832, 1002,
1016.
- lata, 732.
- levis, 732.
- levissima, 732, note.
- magna, 732.
- Cuq, 258, note.
- Cura, 529-535, 993.
- Curatela, just before 529.
- Curatio, 529-535, 993.
- Curator, 517.
- ad alimenta praestanda, 530,
note.
- ad dotem constituendam, 530,
note.
- ad litem, 530.
- aquarium, 80.
- au ventre, 535.
- bonis dando, 535, 993.
- bonorum, or bonis dandis, 716.
- cursus, 1024.
- reipublicae datus ab imperatore,
910, note; 911.
- ventris, 535.
- Curatorship, 529-535, 993.
- Curia, 120, 495, *908, *910, 911,
*1022.
- Curial, 1022.
- Curriculum of Roman law schools,
157-161.
- Curtsey, 477, 493, note; 512.
- Cushing, Luther S., 412.
- Custody of children after divorce, 490.
- Custom, 422.
- Custom of Normandy, 260.
- Paris, 262, 264.
- Customary law, 422.
- English, 368.
- French, *239, *240, 250,
264, 374, note.
- Germanic, 322.
- Cyprus, 190, 958.
- Cyril, sr. and jr., 169.
- Czar, see Tsar.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

D

- D'Aguesseau, see Aguesseau.
 Dale, Valentine, 384, note.
 Damage, 834.
 Damages, 733, 811, note; 828, 856, note.
 Damian, Saint, 207, note.
 Damnosa hereditas, 663.
 Damnum infectum, 845, note.
 — injuria, 828-829, 1016.
 — sine or absque injuria, 816.
 Danish law, 341.
 Dante, 148, 219.
 Dardanarif, 932, note.
 Dauphiny, 239.
 Daybook, 776.
 De las Leyes, Jacobo, 292.
 De-Latinization of Roman Eastern Empire, 167.
 De l'Estoile, 241, note.
 De Wollff, 274.
 Dead, 933, 1023.
 Deaf and dumb, 516, *533-*534, 680, 681, 993.
 Death, 451, 514, 585, 793, 799, 803, 808, 987, 1018.
 — duties, 669.
 — penalty, 913.
 — simultaneous of several persons, 455.
 Debtor, 726.
 Debts, 552, 710, 741, 872, note.
 Decemvirate, 36-37.
 Decisory oath, 869.
 Declaration of Independence, American, 66.
 Decretals of Boniface VIII, 228.
 — — Clement V, 228.
 — — Gregory IX, 228, 292.
 Decretum, 847.
 — Gratiani, 228.
 — of Emperor, 115.
 Decurio, 495, 910, 911, 1022.
 Dediticii, 58, note.
 Deductio, 741, 1002.
 — ad domum, 468.
 Deed, 775.
 Default, 731, 1002.
 Defects (sale), 790.
 Defendant, 838, 864.
 Defensive pleadings, 857.
 Defensor civitatis, 900, 911, 1019, 1022.
 — populi, 120.
 Definitions of law, 72.
 Degradation, 914.
 Degrees of relationship, 464-465.
 Delata hereditas, 665.
 Delatio nominis or criminis, 935, note; 937, note.
 Delator, 937, note.
 Delay, 731, 1002.
 Delegatio, 739.
 Delicts, 725, 728, *813-*832, 929, note; *1016.
 Delivery, 574, 620, 626, 627, *642-*643, 657, 752, 786, 787, *788, 791, *997, 1010.
 — symbolical, 643.
 Demonstratio, 848.
 Demurrer, 857, note.
 Denial, general, 856.
 Denis, 264.
 Denmark, 258, *275, 341, 342, 365, *972.
 Deportation, 452, 508, note; 913.
 Deposit, 758, 805, 1004.
 Dernburg, 355.
 Descendants, 675.
 Desertion from the army, 915.
 Detention, 576.
 Deutschenspiegel, 318.
 Deutsches Privatrecht, 326.
 Diabolical arts, 933.
 Dicasterion (Greek), 19.
 Dictator, 876.
 Dictio dotis, 773.
 Dies cedit, 705.
 — fasti, 905, 1019.
 — judicarii, 905, 1019.
 — juridici, 905, 1019.
 — nefasti, 905, 1019.
 — non, 905.
 — venit, 705.
 Digest of Justinian, 75, 77-110, *137, 156-159, 169, 207, 209, 290, 369, 373, 377, *952.
 Dijon, 248.
 Dilationes, 1019.
 Diocese, 120.
 Diocletian, 120, 122, 145, 173, 499, 851, 901.
 Dioscorus, 169.
 Directarii, 929, 1023.
 Dirksen, 347.
 Disbarment of advocates or lawyers, 914.
 Discontinuance (abolitio), 1023.
 Disinherison, 696, 714.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Distractio, 621.
 — bonorum, 716.
 Distract, 844.
 Distribution, Statutes of, 388, 675.
 Divinatio, 935, note.
 Divination or magic art abolished, 146.
 Divorce, 150, *484-*491, 510, 922, note; 923, *989.
 Divortium bona gratia or communi consensu, 488, 989.
 — mala gratia, 487, note.
 Divus or divinus imperator, 120, note.
 Do ut des, 760.
 — facias, 760.
 Doctors' Commons, English, 384.
 Documents, 858, 863.
 Documentary evidence, 935, 1018.
 Dolus and dolus malus, 748, 830, 1016.
 Dom Pedro I and II, 278.
 Domat, *249, 264.
 Domicil, 444, 890.
 Dominant land, 595.
 Dominium, 505, *572.
 — ex jure Quiritium, 573, note; 578.
 — minus plenum, 572, note; 582, note.
 — plenum, 572, note.
 Dominus emphyteuseos, 602, 606.
 Donatio, see Gift.
 — propter or ante nuptias, 479, 988.
 — sub modo, 765.
 Doneau (Donellus), 219, note; 241, 244, *246, 266.
 Dorotheus, 135, 136, 137, 138, 169.
 Dos, *478, 493, 622, 624, 650, 673, 676, 769, 773, 807, *988.
 Dotis, collatio, 673, note; 1000.
 Douaren, 241, 242, *244.
 Dowry, see Dos.
 Draco, 24.
 Droit coutumier, 235, *239, *240, 250, 260, 264.
 — écrit, 235, *239.
 Du Tillet, 241.
 Duarchy, Roman, 55.
 Duarenius, 244.
 Duck, Arthur, *391, 981.
 Dumoulin, 241, *243.
 Duplication, 857, 1018.
 Dupondii, 162.
 Durand, Guillaume, 237, note.
 Dutch language, 318.
 Duty, moral, 724.
 Duumviri, 120, *910, 911.
 Dux (duke), 120, *890, 1019.

E

Eagle, double-headed, Roman and Russian, 198.
 Early Empire, Rome, 55-119, 946-951.
 — Imperial Roman law, 416.
 Earnest, 782, 1010.
 Easements, 550.
 East, the, 120.
 Eastern Church, 180.
 — Empire, Roman, 121.
 — Europe, 185.
 — Roman Empire in Africa, 283.
 — — — Italy, 206, 220.
 Ecclesiastical courts in England, 368, 380, 384, 399, 401.
 — law, 903, 940, 1026. See also Canon Law.
 — tribunals, Roman, 149, 152.
 Ecloga, 153, *174, 175, 182, *955.
 Ecloga ad Prochiron mutata, 179.
 Ecuador, 308, note.
 Edict of Caracalla, 58, 443.
 — curule aedile, 61, 89.
 — Justinian, 952.
 — magistrates, 50.
 — Milan, 145.
 — Nantes, 251, notes.
 — praetorian, 41, 50, *60-*61, 89, 112, 137, 156.
 — of Theodoric, 133, 204, note; 951.
 Edictal law, *419.
 Edictales, 162.
 Edicts, Roman, 60-61, 878, 946.
 Edictum Carbonianum, 933, 1000.
 — of Emperor, 115.
 — Hadrianum, 61, 89.
 — Julianum, 61, 89, 946.
 — perpetuum, 60, 946.
 — repentinum, 60, note.
 — translatitium, 60, note.
 Education, 3.
 — legal, 3, *144-*165, 906, 939, *954, 1024.
 Edward I, of England, 213, 375-376, 379.
 — II, of England, 377.
 — III, of England, 379, 380, 381.
 — IV, of England, 383.
 — the Confessor, 366, 373.
 Effractores, 929, 1023.
 Egregii, 120.
 Egypt, 186.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Egypt, ancient, 17, 943.
 ——— Macedonian, 25.
 ——— modern, 191, 958.
 Egyptian Church, 186.
 Ejectment, 826, 828, 924, 1023.
 Eleanor, Duchess of Guienne, 236, 370.
 Elections, Roman, 546.
 Elizabeth of England, *375, 390.
 Ellesmere, Lord, 387.
 Emancipation, *446, 510, 514, 673, *986, 992.
 Emblemata Triboniani, 137, note.
 Eminent domain, 572, note.
 Emmanuel of Portugal, 276.
 Emperor, Roman, 69, 111, 115, 120, 124, 184, 870, 888, 892, *894, 895, 910, note; 920, 933, *1019.
 ——— medieval Roman, 208, 215, 231, 273.
 Emperor's private property, Roman, 939, note; 1024.
 Emphyteusis, 602-608, 996.
 Emptio bonorum, see Bonorum emptio.
 ——— et venditio, 780-791, 1010.
 Emptor familiae, see Familiae emptor.
 Enchiridium, 174.
 Enfranchisement of slaves, 436.
 England, 213, 230, 236, 360, *361-404, *982.
 English language, 308, 381.
 ——— law, 311, 312, 313, *413, note.
 ——— Common Law, 413, note.
 Entail, 713.
 Epanagoga, 175, 955.
 ——— aucta, 178.
 Episcopal jurisdiction, Roman, 148.
 Episcopalis audientia (bishop's court), 149, 953.
 Episcopale iudicium, 149, 953.
 Epistola or epistula of Emperor, 115, 894.
 Epitome of Novels, 235.
 Epitome legum, 10th century Roman law, 178.
 Equal, all men are, 66.
 Equites, 881, 894.
 Equity, 7.
 ——— English, 379, *387, 390, 393, 401.
 ——— in United States, 402.
 ——— Roman, 65, 379.
 Error, 748.
 Erskine, James, 254, note; 360, 981.
 Esmein, 258, notes.
 Espéculo de todos los Derechos, 289.
 Estate for life, 586.
 Estoppel, 862.
 Estrays, 633, note.
 Établissements of Louis IX, 238.
 Ethelbert, 365.
 Ethiopia, 186, 957.
 Eudoxius, 169.
 Eugenia, 906.
 Europe, Eastern, 185.
 ——— Western, 143, 185, 211, 217.
 European law, Continental, 983-1018.
 Eustathius Romanus, 178.
 Eutolmius, 169.
 Everlasting League, 356.
 Eviction, *789, 793, note; *1010, 1011.
 Evidence, *858-*865, *868-*869, 935, 937, 1018.
 Exarchate, 173.
 Exceptio or exception, *848, 857, 1018.
 ——— rei venditae et traditae, 1010.
 Exceptores, 907, note.
 Exchange, 761. 805, 1006.
 Excusationes, 518, 993.
 Execution, 716, note; 754, 844, 847, 870, *872, 1003, 1018.
 Executor, 662.
 Executores, 854, note.
 Exemplary substitution, 694, note.
 Exemptions from guardianship, 518, 993.
 Exercitor, 802, note; 804, 1013, 1014.
 Exhereditatio, 696, 714.
 Existimatio, 453, 987.
 Expectation of life, 806.
 Expenditures, of the Roman State, 910, 939, 1024.
 Espensilatio, 735, 739, note; 776, 1009.
 Experientia, Romana, 179, 182.
 Exportation of goods, 1010.
 Exposure of infants, 508, 514, 992.
 Expromissio, 739, note.
 Exsecutores litium, 854.
 Extranei heredes, 667.
 Extr., 228, note.
 Extraordinary procedure, 840, 850, 851-872, 1018.
 Extravagantes of John XXII, 228.
 ——— from Urban VI to Sixtus IV, 228.

F

- Faber, 241.
 Fabrot (Fabrotus), 176.
 Facio ut des, 760.
 ——— facias, 760.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Factiones, 542, note; 544.
 Faenus, 755, 1003.
 Faith, see Fides.
 Falcidian fourth, 660, note; 698.
 False imprisonment, 822, 926, 1023.
 — records, 915.
 — weights, 932, 1023.
 — weights and measures, 936, note.
 Familiae emptor, 685, 686, note.
 Family, 457-535, 988-993.
 Fatui, 445, note.
 Fear, 830, 1016.
 Fee simple, 608.
 Fees, 747, 794, note; 800, note; 850, note; 906.
 — Roman professors', 74.
 Fénelon, 252.
 Ferdinand I, 284.
 — III, 285.
 — and Isabella, 291, 293, 294, 296.
 Feriae, 905, 1019.
 Feudal law, 317, 379.
 Fictions, in Roman law, 39.
 Fideicommissa, see Trusts.
 Fideicommissarius, 712.
 Fideicommissary substitution, 695.
 Fidejussio, preceding 768, notes; 768-774, 1008.
 Fidepromissio, preceding 768, note.
 Fides, bona, 652.
 — mala, 652.
 Fiducia, 39, *613, 621, note; 996.
 Field, David Dudley, 15, 402, *406.
 Fifty Decisions of Justinian, 137.
 Filia familias, 505, note.
 Filius familias, 505.
 Fine, 606, 609, note; 611, note; 914.
 Financial law, 939, 1024.
 Finland, 275, note.
 Fiscus, 55, 540, 604, note; 677, note; 906, *939, 1001, *1024.
 Fish, and fishing, 629, 997.
 Fitting, 355.
 Fixtures, 640.
 Flamen dialis, 471, note.
 Flavius, 45, note.
 Fleta, 376.
 Florence, 137.
 Florentine Index, 75, note; 137, 156.
 — MS. of Justinian's Digest, 137, 209, 373.
 Florentinus, Roman jurist, 85.
 Florida, 309.
 Foederatae, 909.
 Foedus, 909, note.

Foenus, see Faenus.
 Foncier, 563, note.
 Food, 932, 936, note.
 — supplies, 898, 939, 1019, 1024.
 Forcible ejectment and reclainer, 924, 1023.
 — entry and detainer, 823, 924.
 Foreclosure, 616, *621.
 Forfeiture, 603.
 Forgery, 931, 1023.
 Formula, 122, *645, note; *847-*848.
 — arbitraria, 730, note.
 — in factum concepta, 848, note.
 — in jus concepta, 848, note.
 Formulary procedure, 122, 840, *846-*850, 857, note; 865, 881, 901, 1018.
 Fortune-telling, 933.
 Forum Judicum, 281.
 — Roman, 805.
 Foundations, charitable, 540.
 Fourth, 697.
 — Antonine, 700.
 — Falcidian, 698.
 — Pegasian, 699.
 Fragmenta Vaticana, 130, 951.
 France, 213, 218, 219, 220, 231, *233-*258, 263, 275, note; 309, 341, 342, 358, 359, 397, 938, note; *965.
 Franchise, corporate, 547.
 Francis I, of Austria, 232.
 — I, of France, 239, 938, note.
 Franco-Prussian War of 1870, 341.
 Fraud, 517, 748, 824, *830, 931, 1010, *1016.
 Frauds, Statute of, 388.
 Fraudulent Conveyances, Statute of, 385.
 Fraus, 748, 830, 1016.
 Frederick the Great, 330.
 Free, all men are, 66, note.
 Freedom, *434-*440, 452, 719, 720, 723, 774, 910, note; *984.
 French, see also Napoleonic.
 — Bar, 965.
 — law, 983-1018.
 Fruits, *568, 623, 636, 589, 997.
 Frumentationes, 939, note.
 Frumentius, 186.
 Fuero de las leyes, 291.
 — de Leyron, 285.
 — Juzgo, *281, 290, 297, 303, 307.
 — Real, 289.
 Fueros, 286.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Funeral expenses, 664.
 Furiosi, 533-534.
 Furtum, *824-*825, 929, 1016, 1023.
 — manifestum, 824, note.
 — nec manifestum, 824, note.

G

Gaius, 75, *86, 123, 129, 130, 138, 156,
 354, 420, 559, 841.
 Galatian law, 86.
 Gallus, C. Aquilius, 53.
 Gambling, 152, 1023.
 Games, public, 939, 1024.
 Garcíá el Hispano, 292.
 Garibaldi, 223.
 Garidas, 179.
 Gaul, 120, 235, 896.
 Gaultier, 248.
 Gellius, Aulus, 53, 77.
 Gemeines Recht, 322.
 General average, 812, 1015.
 Genoa, 214.
 Gens, 462.
 Gentiles, 672, note.
 Gentili, 272, *273, 384, note; *386.
 German Emperor, medieval, 322.
 — law, 312, 313, 983-1018.
 Germanic, 315, note.
 — Confederation, 337, 341.
 Germanists, 340.
 Germany, 219, 231, 245, *314-*355,
 358, *979.
 Gibraltar, 283.
 Giffen, 327.
 Gift, 574, *657-*660, 807, *999.
 — ante nuptias, 659, note.
 — between husband and wife, *477,
 658, note; 660, note; 769,
 note; 988.
 — between parent and child, 659,
 999.
 — inter vivos, *657-*659, 697, 999.
 — mortis causa, 657, *660, 697, 711,
 999.
 — propter nuptias, 659, note.
 Girard, P. F., 36, 258, note.
 Gladiatorial games abolished, 146,
 953.
 Glanville, 372.
 Glossa ordinaria, 313.
 Glossators, 143, *210-*213, 216, 219,
 237, 290, 322, 369, 376.
 Gloucester, 363.
 Glück, 355.
 Godefroy, Denis, 135, 241, 247.
 — Jacques, 241, 245, 247.
 Gomex, 300.
 Gordian, 621.
 Gortyna, Tables of, 20, 38, 943.
 Göschen, 347.
 Gosia, Martinus, 213, note.
 Gothofredus, 247.
 Governors, provincial, 41, 49, 50, 882,
 890, 1019.
 Gracchus, Tiberius, 53.
 Gradenwitz, 355.
 Granada, 284, 293.
 Gratian's Decree (Canon Law), 228.
 Great Britain, 359-404, 411, 982.
 Greece, ancient, 18-25.
 — Magna Graecia, 23, 37, 943.
 — modern, 194, 258, 960.
 Graeco-Roman law, 955.
 Greek became official language of
 Roman Empire, 167.
 Greek Empire, Roman, 121.
 — law, 615, 777.
 — Orthodox Church, 180, 189, 191,
 196-197.
 — philosophy and Roman law, 62-
 67, 510, 947.
 Greeks in Turkey, 189.
 Gregorian Code, *125, 129, 132, 133,
 136, *951.
 Gregorius, Roman jurist, 125.
 Gregory Doxapater, 179.
 Gregory I, Pope, 365.
 — IX, Pope, 228, 292.
 — XI, Pope, 219, note.
 — XIII, Pope, 227.
 — of Nazianzus, 145.
 Grotius, 266, 270, 272, *273, 300, 326.
 Guardian ad litem, 530.
 — for child en ventre sa mère, 535.
 Guardianship, 462, 468, *515-*535,
 624, 650, 680, 747, 879, *993,
 1025.
 Guatemala, 306, 308, note; 976.
 Guernsey, 260, 966.
 Guiana, British, *271, 398, 404, *970.
 Guienne, 239.
 Guilds, 541.
 Guilty, 935, 938.

H

Habeas corpus, 403.
 Habitatio or habitation, 593, 996.
 Hadley, James, 412.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Hadrian, 57, 61, 136, 363, 632.
 Hagiotheodorita, 180.
 Haiti, 976.
 Hale, Lord, 391.
 Half-blood, 675.
 Hammurabi, 16, 943.
 Hannibal, 42.
 Hanover, 341, note.
 Hanseatic League, 320.
 Hardwicke, Lord, 394.
 Harmenopulos, 182.
 Harvard Law School, 412.
 Haubold, 338, note.
 Hazing, 162.
 Hearsay evidence, 858.
 Heimbach, 176, *354.
 Heineccius (Heineke), *334, 548.
 Heir, *662-*667, 689-701, 714, 722, 728, 768, 808, 813, 1000, 1002.
 — praetorian, 696, note.
 Hellenic, see Greek.
 Helvetic Republic, 356.
 Helvetii, 356.
 Hengham, Chief Justice, 376.
 Henry II, of England, 236, 371, 372.
 — III, of England, 374.
 — VII, of England, 382.
 — VIII, of England, 379, 384, 385.
 Heraclius, 167, note; 169, 170.
 Heredes extranei, 667.
 — necessarii, 665.
 — sui, 666, 702, 1000.
 — sui et necessarii, 666.
 Heredis institutio, 679.
 Hereditaments, 595, 654.
 Hereditas, 551, note; 662, note; 671, 722, 1000. See also Inheritance.
 — damnosa, 663.
 — delata, 665.
 — jacens, 665.
 Hereditatis additio, 665.
 — petitio, 1000.
 Heres, see Heir.
 Heres fiduciarius, 712.
 Heresy, 152.
 Heretics, 148, 864, note; 953.
 Herm, 260, 966.
 Hermogenian, 87, 126.
 — Code, 87, *126, 129, 132, 133, 136, *951.
 Hesse, 336, 341.
 Hexabiblos, *182, 189, 194, 195, *955.
 Highways, 908.
 Hilary of Pointiers, 145.

Hiring, 792-794, 1011.
 Historical school of jurisprudence.
 16th century French, 241, 338.
 — 19th century German, 338, 340, 345, 346.
 History, legal, see Law and legal history.
 Hitzukuri, 311.
 Hoarding food, 932.
 Hobbes, Thomas, 391.
 Hoffman, David, 411, note; 412.
 Hohenstaufen Emperors, 217, note; 218, note.
 Holidays, 905, 1019.
 Holland, 266-267, 969.
 Holt, Lord, 7, 394.
 Holy Roman Empire, 208, 316.
 Homicide, 150, 828, 923, 1023.
 Honduras, 308, note.
 Honoraria, 794, note; 800, note; 850, note; 906.
 Honorius, Emperor, 364.
 Honorius III, Pope, 237.
 Hortensia, 906.
 Hospitals, 150, 540.
 Hotchpot, 673.
 Hotman (Hotomannus), 241, 384, note.
 Howe, William Wirt, 412.
 Hugo, 338, 345.
 Hugolinus, 213, note.
 Humanist school of jurisprudence, French, 240, 241, 324.
 Humanists in England, 384, note.
 Humanitas, 151.
 Hunter, William A., 411.
 Hunting, 629, 997.
 Husband or wife, succession of, 672, *676.
 Hushke, 354.
 Hypotheca or hypothec, 478, *612--*624, 807, 931, *996.
 — tacita, 624.

I

Idiots, 445.
 Ignorance, 803.
 — of law, 423.
 Ihering, 11, 16, 338, *352.
 Illiterates' wills, 688.
 Illustres, 120, 474, note.
 Illyria, 120, 173, note; 896.
 Immovable, 560.
 Imperator, 55, *894, *1019.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Imperiales, 905, 1019.
 Imperialism, Roman, 120.
 Imperium, 837, 880, 934.
 Imprisonment, 717, 872, note; 914, 1023.
 — false, 926, 1023.
 Impetratio actionis, 851, note.
 — dominii, 621.
 Impotency, 461, 488, note.
 Impubes, 522, 993.
 Imputation of payments, 729.
 In integrum restitutio, *449, 527, 530, 531, 737, note; 748, note; *986, 993, 1002, 1018.
 Inadmissible evidence, 864.
 Incapables, 445, *533-*534.
 Incapacity, 457.
 Incendarii, 928, 1023.
 Incest, 922, 988, 1023.
 Incolae, 444, note; 910, 1022.
 Incorporal, 562.
 — hereditaments, 595, 654.
 Index, 1028.
 India, 192, 398, 406, 958.
 Indiction, 939, 1024.
 Indictment, 936, 938.
 Indies, 299, 307, 309.
 Indulgentia (pardon), 1023.
 — (remission of taxes), 1024.
 Industrial associations, 541.
 Infamia (infamia), *453, 459, 717, 853, note; 906, note; 922, note; *987, 1023.
 Infans, 527.
 Infanticide, 146, 152, 953.
 Information, 936, 938.
 Informer (delator), 937, note.
 Ingenui, 436, 462.
 Ingratitude of children, 992.
 — on donee, 658.
 Inheritance, 7, *662-*669, 722, 888, 930, *1000.
 — taxes, 669.
 Injectio, manus, 844, 872, note;
 Injunction, 850.
 In jure cessio, 584, 613, note; 626.
 Injuria, 816, *820-*823, *1016.
 — atrox, 822.
 — sine damno, 817.
 Innkeepers, 834, 1017.
 Innocentius, Roman jurist, 68.
 Innominate contracts, 760-765, 1006.
 Inns of Court, 382.
 Inofficiosum, 697, note; 701.
 — testamentum, 701.
 Inquilinus, 624, note.
 Inquisitio, 935, 937.
 Inquisitorial procedure, 937, 938.
 Insanity, 445, *533-*534, 680, 681, 747.
 Inscriptio, 136, 935, note; 937, note; 1023.
 Insinuatio, 479, note; *659, 660.
 Insolvency, 535, *716-*717, 744.
 Insurance, 806, 1014.
 — marine, 756.
 Institor, 803, 1013.
 Institutes of Justinian, 138, 156, 169, 175, 207, 249, 411, 412, *952.
 — of Lancelot, 228.
 Institution of heir, 689.
 Instrumenta dotalia, 474.
 Intentio, 848.
 Intercessio, preceding 768, note.
 — veto of magistrate, 885.
 Interdict, 850, 1018.
 — possessory, 758, note.
 — de migrando, 792, note; 1011.
 — de superficiebus, 609, note.
 — quod vi aut clam, 792, note; 1011.
 Interdicted persons, 445, 530, *533.
 Interdictio aqua et igni, 452, note; 913.
 Interdictum Salvianum, 615, note; 996.
 Interest, 617, *755, 791, 805, 993, 997, 1001, *1003, 1018.
 Interlocutiones, 1018.
 International law, 219, note; *272-*274, 399, 412, *971.
 Interpolations in Justinian's Digest, 137.
 Interpretation of law, 73.
 Interrogationes, 868.
 Interrogatories, 868.
 Interruption, 651, 998.
 Instabilis, 453.
 Intestacy, see Inheritance.
 Intestate succession, 151, *670-*677, 714, 879, *1000. See also Inheritance.
 Intimidation, 748, *831, *1016.
 Inventa et illata, 614.
 Inventorium, see Inventory.
 Inventory, 662, 664.
 — of ward's property, 517.
 Irnerius, 213.
 Irrigation, 294.
 Isabella, 291, 296.
 Isaurian law, 174.
 Isidore, 169.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Islamic, see Mohammedan.

Italians, 442.

Italian law, 983-1018.

Italy, 120, 133, 143, *201-*224, 258, 366, note; 368, 369, 896, *962.

Ivan III, the Great, 197, 198.

— IV, 198.

J

Jacens, hereditas, 665.

Jacobus, 137, note; 169, 213 note.

James I. of England, 387.

James V. of Scotland, 359.

James VI, of Scotland (James I. of England), 360.

Japan, 258, *311-*313, 978.

Japanese law, 983-1018.

Javolenus, *88, 363.

Jena, 348, note.

Jersey, 260, 966.

Jewels, 631.

Jews, 150, 462, 516, 953, 1026.

Jerome, Saint, 129.

Jesuits, 186.

Jethou, 260, 966.

Jettison, 574, 812, 1015.

Jhering, see Ihering.

Joannes, 169.

Jobbé-Duval, 258, note.

Johannes, 137, note.

John II (Comnenus), 174, note.

— IV, of Portugal, 276.

— VI, of Portugal, 278.

— XIII, Pope, 228.

— of Antioch, 180, note.

— Nomophylax, 179.

— Zonaras, 180, note.

Joinder of issue, 122, note; *856-*857, 1018.

Joint-ownership, 796, 1012.

Jones, Sir William, 377.

Joseph II, 231.

Judaea, 16, 943.

Judex, 122, 645, note; 834 and note; 839, 840, 843, 847, 848, *849, 880, note; *881, *893, *1019.

— civil, 881, 893.

— criminal, 881, 893.

— delegatus, 894.

— pedaneus, 834, note.

— quaestionis, 880.

Judges, Roman, 69, 864.

Judgments, 122, note; 716, note; 754, 847, 870, 872, 1003, 1018.

Judicia ordinaria, 846, note.

— extraordinaria, 850, 851, note.

Judicial organization, Roman, 874-905, 1019.

Judicati, 716, note.

Judicature Act of 1873, English, 401.

Judices, 371. See also Judex.

— criminal, 934-935, 936, 938.

— pedanei, 901, 1019.

— selecti, 881, note.

Judicis postulatio, 843, 1018.

Judicium, 840. See also Actio.

— publicum, 531, note; *934-*935, 936, 938, *1023.

— rescindens, 449, note.

— rescissorium, 449, note.

Jugatio, 939, note.

Juge d'instruction, 938.

Julian, 61, 75, *89.

— governor of Ceuta, 233.

— professor of law, 169, 235.

Juramentum, 869.

— in litem, 869, note.

Jurisconsults, 45, 57, 61, *68-*110, 113, 137, 154, *906, *948.

Jurisdiction, civil, 835-872.

— criminal, 934-937.

— ecclesiastical, 1026.

Jurisperiti, 68.

Jurisprudentes, 68.

Juristic acts, 748.

Jurists, Roman, 51-53, 65, 137, 144, *906, *1019.

— — two schools of, *74, 86.

Jury, 19, 371, 373, 403, 858, 880, *881, *934-*935, *936, *938.

Jus, 847, 869.

— accrescendi, 691, 708.

— acta conficiendi, 659, note.

— aequum, 65.

— civile, *33, *40, 44, 50, 53, *56, 57, 58, 60, 63, 74, 122, 137, *419, 626, 671, 687.

— deliberandi, 667.

— defuncti, universum, 662, note.

— distrahendi, 621.

— commune, 371.

— gentium, 43, *44, *56, 57, 65.

— honorarium, 41, *50, *56, 74, 111, 122, 137, *419, 946.

— honorum, 909.

— in re aliena, 582.

— liberorum, 528, note.

— naturale, 63-67, 626, 947.

— novum, 61, 114, 135, note.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Jus Papinianum, 32.
 — postliminii, 437.
 — praelationis, 622, note.
 — protimiseos, 604, note; 609, note.
 — Quiritium, 573.
 — respondendi, 68-73, 74, 113, 144, 948.
 — suffragii, 909.
 — vetus, 58, 135, note.
 Jusjurandum, 869, 1018.
 — calumniae, 869, note; 1023.
 — in expensis, 872, note.
 — in litem, 869, note.
 Justa causa, 642.
 Justae nuptiae, 460-482, 988.
 Justiciar, Chief, 374.
 Justin I, 134.
 Justinian, 134, 135-143, 150, 167, 169, 187, 204, 235, note; 365, 373, 376, 377, 420, 493, 621, 675, 704, 711, 712.
 — II, 170, 171.
 Justinianean or Justinian emancipation, 514.
 — program of legal education, 156.
 — Roman law, 134-143, 174, 175, 176, 179, 186, 193, 207, 237, 287, 322, 339, 344, note; 369, *417, 488, 952.
 — School of Greek jurists, 169, 176.
 — substitution, 694, note.
 Justiniani Novi, 162.
 Justinian's Code, 127, note; 136, 153, 952.
 — codification, 134-143, 952.
 — Digest or Pandects, 137, 952.
 — Fifty Decisions, 137.
 — Institutes, 138, 952.
 — Novels, 135, note; 139, 153, 952.
 — Code, Digest, Institutes, and Novels, see Code, etc.
 Justus titulus, 642.

K

Kant, 348, note.
 Karlowa, 355.
 Keller, 347.
 Kent, James, 412, 600.
 Kidnaping, 926, 1023.
 King's Bench, Court of, 374.
 Kinship, 462-465.
 Kleines Kaiserrecht, 318, note.
 Knights (equites), 881, 894.
 — of St. John Hospitalier, 193.

Kohler, 355.
 Koran, 187, 958.
 Krueger, 354.

L

La Plata, 306.
 La Salle, 263.
 Labeo, 74, 80, *90, 154.
 Lactantius, 119.
 Laesae majestatis, 915, 1023.
 Laesio, see Lesion.
 — ultra dimidium or enormis, 785, note.
 Lambert, 31, 36.
 Lamoignon, 251.
 Lancelot, 228.
 Land, 595-600, 630, 996.
 Landlord and tenant, 793.
 Landrecht, Badisches, 336.
 — Prussian, 330.
 Lanfranc, 368.
 Langton, Stephen, 373.
 Lapsed legacies or trusts, 691, 705.
 Larceny, 825, 929.
 Larned, Joseph G. E., 412, note.
 Later Empire, Roman, 120-184, 955, 957.
 — Imperial Roman law, *416, 957.
 — Republican Roman law, 416.
 Latin America, 278, note.
 — conquest of Constantinople, 183.
 — Church, see Roman Catholic Church.
 — in Eastern Empire, 167.
 — in France, 239.
 Latini Juniani, 58, note.
 Latins, 47, 442.
 Laudationes, 935.
 Laudemio, 606.
 Laudemium, 606, 609, note; 611.
 Laurent, 265.
 Law and legal history.
 — Abyssinian, 186, 957.
 — administrative, 873-912, 1019-1022.
 — American, 7, 396, *413, note.
 — ancient, 8.
 — Anglo-American, 7, 361-412, *413, note; 982.
 — Anglo-Australian, 406.
 — Anglo-Canadian, 406.
 — Anglo-Saxon, 366-367.
 — ante-Roman, 16-25, 943.
 — Argentinian, 308, note; 976, 983-1018.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Law and legal history.

- Assyrian, 16, 943.
- Athenian, 24, 943.
- Austrian, 231-232, 342, 964, 983-1018.
- Babylonian, 16, 943.
- Bavarian, 342.
- Belgian, 265, 968.
- of the Bithynians, 86, note.
- Bolivian, 308, note.
- Brazilian, 278, 308, note; 974, 976.
- of British Guiana, 271, 970.
- British Indian, 192, 406, 958.
- Bulgarian, 195, 960.
- Burgundian, 133.
- Byzantine, 168.
- Byzantine Roman, 168.
- Canon, *225-230, 940, *963, 1026.
- cantonal Swiss, 357.
- of Ceylon, 269, 970.
- Chaldaean, 16, 943.
- of Channel Islands (Jersey, Guernsey, Alderney, etc.), 260.
- Chilean, 308, note; 976, 983-1018.
- Chinese, 992.
- of Citations, Valentinian, 123, 137.
- for citizens, Roman, 40.
- Civil, 419.
- Colombian, 308, note; 310.
- constitutional, 873-912, 1019-1022.
- Costa Rican, 308, note.
- ancient Cretan, 30, 943.
- criminal, 913-938, 1023. See also Criminal law.
- customary, 422.
- of Cyprus, 190, 958.
- Danish, 275, 342, 972.
- definitions and maxims, 72.
- Dutch, 266-267, 969.
- of the Eastern Empire, 168.
- ecclesiastical, 940, 1026.
- Ecuadorian, 308, note.
- edictal, *419.
- Egyptian, ancient, 17, 25, 943.
- — modern, 191, 958.
- of England, *413, note.
- English, 190, 270, 361-412, 413, note; 982.
- English Common, 413, note. See also Common Law, English.

Law and legal history.

- Ethiopian, 186, 957.
- French, *233-*258, 342, 965, 983-1018.
- feudal, 317, 379.
- financial, 939, 1024.
- of the Galatians, 86, note.
- German, *314-*355, 979, 983-1018.
- Graeco-Roman, 168.
- Greek, 615, 777.
- — ancient, 18-25, 943.
- Guatemalan, 308, note; 976.
- Haitian, 976.
- of Honduras, 308, note.
- Hungarian, 233.
- international, 7, *272-*274, 971.
- interpretation of, 73.
- Italian, 133, *201-*224, *962, 983-1018.
- Japanese, *311-*313, 978, 983-1018.
- Jewish, 16, note; 943.
- Latin-American, 983-1018.
- Lombardic, 322.
- Louisiana, *263-*264, 967, 983-1018.
- of Luxemburg, 258.
- Magna Graecia, 23, 943.
- Maltese, 193, 959.
- maritime, 21.
- of Martinique, 258.
- of Mauritius, 261.
- merchant, 7.
- — English, 397.
- Mexican, 308, note; 976, 983-1018.
- military, 890, 940, 1025.
- modern, 8.
- Mohammedan, *187-*192, 269, 958.
- — in Spain, 294.
- similarity of Mohammedan and Roman, 188.
- of Monaco, 258.
- Montenegrin, 195, 960.
- and morality, 70.
- of nations, 44.
- of nature, 63-67, 218, 252, 273, 326, 330, 334, 338, 390, 391, 947.
- Nicaraguan, 308, note.
- non-Roman, 16-25, 943.
- Norwegian, 275, 972.
- Ostrogothic, 133.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Law and legal history.

- of the Pandects (Germany), 322, 326, 339, 342.
- Paraguayan, 308, note.
- of persons, 429-556, 984-994.
- Peruvian, 308, note; 976.
- of the Philippine Islands, 983-1018.
- Phœnician, 18, 943.
- Porto Rican, 983-1018.
- Portuguese, 276-277, 973.
- prætorian, 419.
- private, 427-872, 984-1018.
- Prussian, 330, 342.
- public, 427, 873-940, 1019-1027.
- of Quebec, 262, 983-1018.
- Rhodian, 21, 812, 943.
- Roman, *26-*184, *416-*418, 419-1027.
- Roman-Dutch, 266, 267, note; *268-*270, 970.
- Roumanian, 195, 960.
- Russian, *196-*200, 961, 983-1018.
- of Salvador, 308, note.
- of San Marino, 205, 962.
- Saxon, 342.
- Scotch, 359-360, 981.
- Serbian, 195.
- of Seychelles, 261.
- South African, 270, 970.
- Spanish, 133, *279-*305, 309-310, *975, 977, 983-1018.
- Spanish-American, 306-308, 976.
- Spartan, 22, 943.
- of St. Lucia, 262, note.
- statutory, 421.
- Swedish, 275, 972.
- Swiss, 356-358, 980, 983-1018.
- terms and general principles of, 419-427, 983.
- Teutonic, 133, 357, 379, 750, note; 834.
- of Trinidad, 308, note.
- Turkish, 189, 958.
- uniformity, 14.
- of United States, 263-264, *413, note; 967.
- unwritten, 422.
- Uruguayan, 308, note; 976.
- Venezuelan, 308, note; 976.
- Visigothic, 133.
- world-mission of Roman law since Justinian, 12-15.
- written, 421.

Law, French language, of England, 383.

Law schools, 12.

- American, 7, 165, 412.
- Belgian, 265.
- Dutch, 266.
- English, 369, 384.
- French, 237.
- German, 321, 346.
- Italian, 200, 212, 321.
- Japanese, 311.
- Portuguese, 276.
- Roman, 74, 98, *154-*165, 906, 939, *954, 994, 1024.
- Scandinavian, 275.
- Scotch, 359.
- Spanish, 288.
- American, 308, note.
- Swiss, 357.
- schools of United States, 412.
- Laws of the Indies, 299, 307, 309.
- of Oléron, *236, 285, 320, 370, 380.
- of Toro, *295, 297, 307.
- of William I, 366, note.
- of Wisby, 251, 320.

Lawsuits, 554.

Lawyer, American, 1-7.

- Roman, 45, 51-53, 60-61, *68-*110, 113, 855, 866, 881, *906, 914, 919, 935, *948, 1019.

Lawyers, Roman, two schools of, 74.

Lawyer and client, 864, 906, 919.

Le Breton, 376.

Le Conte, 241, 242.

League, Everlasting, 356.

Lease, 586, 607, 608, 610, 611, *793, *1011.

Ledger, 776.

Legacies, 551, 660, 698, *704-*711, 714, 912, *1001.

Legacy per damnationem, 707, note.

— per præceptionem, 707, note.

— sinendi modo, 707, note.

— per vindicationem, 707, note.

Legal education, see Education.

— fictions, Roman, 39.

— history, value of, 8-15, 942. See also Law and legal history.

Legaré, Hugh S., 412.

Legatum extinctum, 708, note.

— partiarium, 706, note.

Legatus, 890, 1019.

Leges, 49, 111.

— Alemanni, 357, note.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Leges Barbarorum**, 125, 127, *133, 143, 153, 317, note; 329, note; *951.
 — datae, 49.
 — Edwardi Confessoris, 366, note.
 — Henrici I, 366, note.
 — Julia et Papia Poppaea, 111, 150.
 — Porciae, 913.
 — regiae, 32.
Legis actiones, 38, 45, 855, note, 879.
 — procedure, 840-846, 1018.
Legitima pars, see *Pars legitima*.
Legitimation, 380, note; *492-*495, 702, note; 911, note; *990, 1025.
 — by subsequent marriage, 150.
Legitime, 697.
Legitimi, 672, 1000.
Leibnitz, 274, 330, *331, 345.
Lenocinium, 922, note; 1023.
Leo, Roman Emperor, 128.
 — the Iconoclast, see *Leo III*.
 — III, the Isaurian, 150, 170, *173, 174.
 — VI, the Philosopher, or the Wise, 176, 187, 659.
 — IX, Pope, 226, note.
Leon, 281, 284.
Leonides, 137, note; 169.
Leonine Constitutions, 176, note.
 — partnership, 797, note.
Leontinus, 169.
Lèse-majesté, 915, 1023.
Lesion, 737, note; 785, 1010.
Letter, 748, note; 779.
Letting and hiring, 792-794, 1011.
Lewis, Sir George, 31, 36.
Lex Acilia repetundarum, 1018, 1019, 1023.
 — Aebutia, 845, 846.
 — Antonia de termissibus, 1022.
 — Aquilia, 795, note; *828, 832, note; *1016, 1017.
 — Aurelia, 935, note.
 — Burgundiorum, 357, note.
 — Calpurnia, 880, note.
 — Canuleia, 462, note.
 — Cassia, 880, 935, note.
 — Cincia, *906.
 — de donis, 477, note.
 — de donis et muneribus, 659, *999.
 — Clodia de collegiis, 546, note.
 — Coloniae Juliae Genetivae sive Ursonensis, 909, note; 1022.
Lex commissoria, 613, note; 614, note; 996.
 — Cornelia, 1001.
 — de falsis, 437, 917, note; 921, note; 931, notes; 1023.
 — de sicariis, 920, note; 923, note, 924, note; 933, note; 936, note; 1023.
 — testamentaria, 1023.
 — de imperio, 55.
 — Fabia de plagariis, 1016, 1023.
 — Fabiana, 1000.
 — Falcidia, 660, 999, 1001.
 — Furia, 660, note.
 — Gabinia, 546, note.
 — Julia adversus magistratus, 1019.
 — Julia de adulteriis, 487, 922, notes; 936, note; 988, 1023.
 — Julia de adulteriis et de fundo dotali, 487, note.
 — Julia de ambitu, 936, note; 1023.
 — Julia de annona, 932, note.
 — Julia de cessione bonorum, 717, note.
 — Julia de collegiis, 547.
 — Julia de maritandis ordinibus, 462, note; 677, note.
 — Julia de vi privata, 924, note; 929, note; 995, 1016, 1023.
 — Julia de vi publica, 919, note; 924, note; 929, note; 933, note; 1023.
 — Julia de vi publica et privata, 1016.
 — Julia de vi publica seu privata, 995.
 — Julia de vicesima hereditatum, 669, note.
 — Julia et Papia Poppaea, 478, note; 482, 691, note.
 — Julia judiciaria or judiciorum privatorum, 845, note.
 — Julia majestatis, 915, note; 1023.
 — Julia municipalis, 909, note; 1022.
 — Julia peculatus, 930, note; 1023.
 — Julia repetundarum, 921, note; 1018, 1023.
 — Junia Velleia or Vellaea, 696, note.
 — Laetoria, 531, note.
 — Licinia, 60, note; 875.
 — de sodalicis, 546, note.
 — Malicitana, 910, notes.
 — municipii Tarentini, 1022.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Lex Plaetoria, 447, note; *531.
 — Plautia Papiria, 909.
 — Poetelia, 716, note.
 — — de nexis, 754, note.
 — Pompeia de parricidiis, 508,
 note; 923, note; 1023.
 — Porcia, 913.
 — regia, 55, 115.
 — Rhodia de jactu, 812, 1015.
 — Romana Burgundiorum, 133,
 357, note.
 — — Visigothorum, *133, 143,
 235, 280, *951.
 — Rubria de Gallia Cisalpina,
 1022.
 — Salpensana, 910, notes; 1022.
 — Servilia, 935, note.
 — Valeria, 875, 880.
 — Visellia, 1023.
 — Voconia, 660, note.
 — XII Tables, 36-38, 841.
 Leyes de Toro, 295, 297.
 Libanius, 155.
 Libel (civil pleading), 853-854, 907,
 1018.
 — (criminal pleading), 927, 1023.
 — (tort or crime), 820, 822, 823.
 Libelli inscriptio, 937, note; 1023.
 Libellus accusationis, 935, 937, 938,
 1023.
 — appellatorius, 870.
 — contradictionis or responsionis,
 856, 1018.
 — principi datus, 894, 1019.
 — repudii, 487.
 Liber Extra, 228, note.
 — Gothorum, 281, note.
 — Judicum or Judiciorum, 281,
 note.
 — Sextus, 228, note.
 — Septimus, 228, note.
 Liberi (children), 672.
 Liberti, 436, 462.
 — operae libertatis causa, 774.
 Libertinus, 910, note.
 Liberty, *434-*440, 719, 720, 723,
 775, *984.
 Libraries, 939, 1024.
 — American, 410.
 — English, 367, note.
 Library, Laurentian-Medicean, 137,
 note.
 Libripens, 570, note; 686, note.
 Libro de las leyes, 291.
 Lien, 478, *624, 791, note; *996.
 Life, 806, note.
 — insurance, 806, 1014.
 Limitation, 585.
 Limitations, statute of, 745.
 Lincoln, 363.
 Lingenthal, von, 354.
 Lis crescens, 811, note; 856, note.
 Litigation, vexatious, 853.
 Litis aestimatio, 935, note.
 — contestatio, 122, note; 743, *847,
 *856, *1018.
 Litterae dimissoriae, 870.
 Littleton, 383.
 Livingston, Edward, 264.
 Loan, 754-757, 763, 906, note; *1003.
 Locatio et conductio, 792-794, 1011.
 Logista civitatis, 911.
 Lombardic law, 322.
 Lombards, 206.
 London, 363.
 Lopez, 300.
 Lord Campbell's Act, 828.
 Loss, 737, 834, 1002, 1017.
 Lothaire II, 209.
 Louis VII, of France, 236.
 — IX (Saint Louis), of France, 238.
 — XI, of France, 251.
 — XIV, of France, 198, 220, 231,
 251, 262, note; 263, note;
 275, note; 301, 330, 397, 938,
 note.
 — XV, of France, 220, 231, 251,
 275, note; 330, 397.
 — XVI, of France, 253.
 Louisiana, 249, 250, 258, *263-*264,
 309, *967.
 — law, 983-1018.
 Low Countries, see Belgium and Hol-
 land.
 Lower Empire, Roman, 121.
 Lunatics, 445, 516, *533-*534, 680,
 681, 747.
 Luther, 323, 324.
 Luxemburg, 258.
 Lycurgus, 22.
 Lytae, 162.

M

- Macaulay, 404, 406.
 Mackeldey, 349.
 Mackenzie, Lord, 411.
 Maecian, 91.
 Magic arts, 933.
 Magister, 155, note.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Magister, bonorum, 716.
 — libellorum, 98, 108, note.
 — militum, 514.
 — navis, 802, 1013.
 — (professor), 74, note.
 Magistrates, Roman, 834, 874-905, 910, 1019.
 Magna Charta, 373.
 Magna Graecia, 23, 37, 943.
 Mai, Angelo, Cardinal, 133.
 Maine, Sir Henry, 5, 384, note; 387, *411.
 Maitland, Frederic William, 8, 411.
 Majority, 446-449, 531, 986.
 Mala fides, 652.
 Maleficia, see Delicts.
 Malleville, 254.
 Malmesbury, William of, 369.
 Malta, 193, 224, note; 258, 959.
 Mancipatio, 39, 446, note; *570, 573, note; 584, 613, note; 626, 643, note; 686, 735, 754.
 Mancipium, 505, 570.
 Mandamus, 850.
 Mandatum (agency*), *800-*802, *1013.
 — of Emperor, 115.
 — qualificatum (agency), 768, note; 800.
 — simplex, 800, note.
 Manichaeans, 953.
 Manilius, 53.
 Manitoba, 309.
 Manrent, 439.
 Mansfield, Lord, 7, 63, 251, 370, *397.
 Manu, 17.
 Manuals, 178, 207.
 Manumission, 436, 550, 775.
 Manus, 460, 469-483.
 — injectio, 872, note; 844, 1018.
 Marcellus, 92.
 Marcian, Roman Emperor, 128.
 — Roman jurist, 93, 616, 620.
 Marcus Aurelius, 63, 130.
 Maria Theresa, 231.
 Marine insurance, 756, note; 806, 1014.
 Marital power, 474-481, 505, 721.
 See also Manus.
 Marinus, 174.
 Maritime law, 21.
 Marjorian, Roman Emperor, 128.
 Market overt, 650, note.
 Marquardt, 350.
 Marriage, 7, 150, 174, 444, *459-*483, 493, 510, 528, 922, 953, *988, 1025.
 — by proxy, 468.
 — community system of, 480.
 — domicil of wife, 444.
 — morganatic, 483.
 — service, 117.
 — settlement, 474.
 Martin, François Xavier, 264.
 Martinique, 258.
 Martinus, Italian jurist, 213, note.
 Massacre of St. Bartholomew, 246, 384, note.
 Materfamilias, 474, note.
 Matricula fori, 906.
 Maultrot, 253.
 Mauritius, 258, 261, 966.
 Maximilian I, medieval Roman Emperor, 231, 322.
 Maxims, legal, 72.
 May, 258, note.
 Mazzini, 223.
 Medical expenses, 820.
 Medici, Roman, 954.
 Melanchthon, 326, note.
 Men are equal, 66.
 Mena, 137, note; 169.
 Menes, 17.
 Mensarii, 805, note.
 Mensularii, 805, note.
 Mentecapti, 445, note.
 Merger, 585, 597, 603, 619, 663.
 Merx, 792, note.
 Messenger, 748, note; 779.
 Methodist Episcopal Church, 963.
 Metus, 748, 831, 1002, 1016.
 Mexican law, 983-1018.
 Mexico, 306, 308, note; 976.
 Mikado, 311.
 Milan, Edict of, 145.
 Military court of the Constable and Earl Marshal, English, 380.
 — law, Roman, 120, 890, 896, 915, 940, 1025.
 Milton, 3.
 Mines, 438, 589, 913, *939, *1024.
 Minor and minority, *446, *447, 516, 522, 530, *531-*532, 650, 737, note; 747, 936, note; *993, 1002.
 Minos, 18, 20, 22.
 Mirabeau, 252.
 Mirror of Justices, 376.
 Misconduct by State officials, 918.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Missio in bona, 716, note.
 — in possessionem, 618, note; 716, note.
 Mississippi, 309.
 Mistake, 710, 748, *811, 1015.
 Mittermaier, 351.
 Mobilier, 563, note.
 Modern Civil Law, 185.
 Modern Codes, 983-1018.
 Modestinus, 57, 75, *94, 113, note; 123, 129.
 Mohammed, 170, 183.
 Mohammedan conquest of Asia, Africa, Egypt, Europe, 187.
 — — Eastern Empire, 170, 171.
 — — Spain, 283, 293.
 — countries, 187-192, 269, note; 958.
 — law in Spain, 294.
 Mohammedans, 281.
 Mommsen, 137, 346, *350, 353.
 Monaco, 258.
 Money paid by mistake, 811, 1015.
 Monks, 462, 488, note; 516, 953.
 Monopoly, 932.
 Montalvo, 291, 292.
 Montenegro, 195.
 Montesquieu, 66, 252.
 Montpellier, law school of, 213, 237.
 Moors in Spain, 283, 293, 294.
 Mora, 731, 1002.
 Moral duty 724.
 Morality, 70.
 Morey, William C., 412.
 Morganatic marriage, 483.
 Morris, M. F., 16.
 Mortgage, 604, *612-*624, 664, 931, *996.
 Moses, 129.
 Moslem, see Mohammedan.
 Motive, 748.
 Movable, 563.
 Muirhead, James, 411.
 Mulier puisné, 493, note.
 Municipal corporations, 908-912, 1022.
 — magistrates, 834.
 Municipalities, 120.
 Municipies, 910.
 Municipia, 908, 909, 911, 1022.
 Murder, 608, 510, 915, 923, 1023.
 Mutuum, 755, 1003.
 Napoleon, 208, *255, 263, 356, 938, note.
 Napoleon III, 311.
 Napoleonic Empire, 221.
 Narses, 143, 204.
 Natural law, 218, 252, 273, 326, 330, 334, 338, 390, 391. See also Law of Nature.
 Nautae, 834, note; 1017.
 Nauticum faenus, 756, 806, note; 1003.
 Navarre, 284.
 Navy, 1025.
 Nebrija, De, 300.
 Necessarii heredes, 665.
 Negative servitudes, 599.
 Negligence, *732, 815, 828, 829, *832, *1002, *1016.
 Negotiable instruments, 777, note; 805.
 Negotiorum gestio, 810, 1015.
 Neratius, 95.
 Nerva filius, 97.
 — pater, 96.
 Newfoundland, 392, note.
 New Granada, 306.
 New Mexico, 309.
 New Zealand, 398.
 Nexi liberatio, 735.
 Nexum, 754, 1003.
 Nicaragua, 308, note.
 Nicetas, 174.
 Nicholas I of Russia, 199.
 Niebuhr, 86.
 Nobilissimi, 120.
 Nobility, Roman, 120.
 Nolle prosequi (abolitio), 1023.
 Nomina transcripticia, 776, 1009.
 Nominate contracts, 753-759, 1003-1006.
 Nomocanon, 139.
 Non liquet, 935.
 Non-Roman law, 16-25, 943.
 Non-user, 585, 597.
 Noodt, 266.
 Norman conquest of England, 368.
 Norman-French language, 368, 381, 383.
 Normandy, 239.
 — custom of, 260.
 North America, 392.
 Norway, 258, 275, 972.
 Not guilty, 935, 938.
 Notariat, 907.
 Notarius, 622, note; 907.

N

Namusa, 53.
 Naples, 206, note.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Notary, 219, note; 622, 659, note;
664, note; 853, note; *907,
*1019.
Notice, 621.
Novatio or novation, 739, 1002.
Novellarum epitome of Julian, 139.
Novellen, 139, 344, note.
Novels of Anthemius, 128, 951.
——— Justinian, 135, note; *139,
153, 161, note; 169, 207, *952.
——— Leo and Severus, 128, 951.
——— Leo VI, the Wise, 176, note;
955.
——— Marcian, 128, 951.
——— Marjorian, 128, 951.
——— Theodosius, 127, note.
——— Theodosius II, 128, 951.
——— post-Theodosian, 128, 951.
——— of Valentinian III, 128, 951.
——— 118 and 127, 675.
Novísima Recopilación, 295, note;
*303.
Noxae deditio, 818, 1016.
Nudum pactum, 749.
Nueva Recopilación, 295, note; 297,
299, 307, 309.
Nuisance, 829.
Nummularii, 805, note.
Nuns, 462, 488, note.
Nuncupative will, 688.

O

Oath, 148, 517, 853, 856, *864, *869,
871, note; 881, 935, 993, 1002,
*1018, 1023.
Oblatio curiae, 495.
Obligation and contract, 746.
Obligations, 7, 569, 724-834, 1002-
1017.
——— civil, 725.
——— praetorian, 725.
Oblique substitution, 695.
Occupancy, 574, 627, 628-634, 997.
Occupatio, see Occupancy.
Odofredus, 207, note.
Ofilius, 124, 669, note.
Oghi, Count, 312.
Oldendorp, 323, *325, 326, note.
Oléron, laws of, *236, 251, 285, 320,
370, 380.
Operae, 594, 996.
Oppida, 908, 1022.
Opusculum de iure, 179.
Oral wills, 688.

Oratio principis, 114.
Ordeals, 1018.
Ordenamiento of Alcalá, 290.
Ordenanzas reales de Castilla, 291.
Ordenanzas of Burgos, 801, note.
Ordinance of Alcalá, 295, 297, 807.
Ordinances of Alfonso, 276.
——— of Bilbao, 301.
——— of Burgos, 307.
——— of Castile, 307.
——— of Emmanuel, 276.
——— of Louis XIV, 262, note; 263,
note.
——— of Montalvo, 291.
——— Philip II, 276.
——— of Seville, 301, note.
——— of Spanish Kings, 291, note.
Ordinary procedure, 840, 846-850,
1018.
Ordination, 953.
Order of claims, 664.
Ordo Augustalium, 910, 911, 1022.
——— decurionum, 910, 911, 1022.
——— judiciorum, 847, 1018.
Ordonnances, French, 239.
——— of Louis XIV and Louis XV, 251.
Orient, 120, 896.
Origo, 444, note.
Orleans, 239.
Orphan asylum, 540.
Orphans, 150, 953.
Ortolan, 258, note.
Ostrogoths, 133, 204.
Ottoman, see Turkish.
Oulogenia, 198.
Ownership, 151, 550, 572-723, 786,
826, 828, 995-1001.
——— bonitary, 573, 716, note.
——— quiritary, 573, 716, note; 879.
Oxford, 213, 369, 374, 380, 382, note;
*384, 411.

P

Pacta or pacts, preceding 746; 749,
807, 1002, 1014.
——— legitima, 749, note.
Pactum de dote constituenda, 749,
note; 807, 1014.
——— de quota litis, 906.
——— de vendendo, 614, note.
——— donationis, 749, note; 750,
note; 807.
——— hypothecae, 618, note; 749,
note; 807, 1014.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Pactum non petendo, 735.
 — nudum, 749.
 — vestitum, 749, 768, note; 776, note.
 Paganism proscribed, 145.
 Pagans, 150, 864, note; 953, 1026.
 Pagi, 908.
 Pais, 31, 36.
 Palacios Rubios, 300.
 Panama Canal Zone, 310.
 Pandects of Justinian, 137, 952.
 Pandektenrecht, 322, 326, 339, 342.
 Papacy, see Pope.
 Pape, Dr., 344, note.
 Papinian, 75, *98, 123, 129, 130, 155, 156, 421, 896.
 "Papinian, the French," 243.
 Papinianistae, 98, 162.
 Paraguay, 308, note.
 Paramour, 922.
 Parapherna, 480, 988.
 Paraphernalia, 480, note.
 Pardon (indulgentia), 1023.
 Parents, 675.
 Paris, 239.
 — custom of, 262, 264.
 Parks, 908.
 Parlement of Bordeaux, 239.
 — — — Dijon, 248.
 — — — Paris, 239, 359.
 Parole evidence, 858, 864, 935.
 Parricide, 508, 923, 1023.
 Pars legitima, 658, 660, *697.
 Partes or particulae, corporate, 548.
 Partidas, 276, *290, 297, 303, 307, 309.
 Parties, 747.
 Partition, 644, 668.
 Partnersip, 795-799, 805, 1012.
 Pater civitatis, 911.
 Paterfamilias, 446, 457, *505.
 Paternal power, 69, 174, 446, 457, 460, 468, 487, 492, 496, 502, 504, *505-*514, 515, 673, 680, 681, 747, 802, 818, *992, 1025.
 Patria potestas, see Paternal power.
 Patriarchs of Constantinople, 197, 955.
 Patricians, 31, 36-37, 462, 471, 545.
 Patricius, 514.
 — Roman jurist, 169.
 Patronus, 723, 774, 906, 935.
 Patzus, 179.
 Paul IV, Pope, 228.
 — Saint, 99, note; 116, 150, 442, note.
 Paulus, 65, 75, 98, *99, 123, 129, 130, 132, 133, 137, 156, 363, 724, note; 760, 896.
 Pauperistae, 369, note.
 Payment, 621, *729, 811, 931, 1002, 1015.
 Pays de droit coutumier, 239.
 — — — écrit, 239.
 — — — loi romaine, 239, note.
 Peace, 1025.
 Peculatus, 930, 1023.
 Peculium, 436, note; 509, 680, note; 992, 1025.
 — — — adventicium, 512, note.
 — — — castrense, 512, 680, note; 992, 1025.
 — — — quasi castrense, 512, 680, note; 992, 1025.
 Pedanei, 901, 1019.
 Pedro Hispano, 292.
 Pegasus fourth, 699.
 — school of Roman jurists, 74.
 Pegasus, 74, *100.
 Permutatio, 761, 1006.
 Peñafort, Raymond de, 292.
 Penal servitude, 437.
 Penalties, 913-914, 1023.
 Pennsylvania Law School, 412.
 Pensio, 602, note; 609, note.
 Pentateuch, 129.
 Perduellio, 880, 915, 934, 1023.
 Peregrini, 41, 42, *43, 58, *442, *443, 461, 573, 578.
 Performance, 729-733, 760, 1002.
 — specific, 730.
 Pericles, 24.
 Perjury, 920, 1018, 1023.
 Pernice, 355.
 Perozzi, 224, note.
 Perpetuity, 695.
 Perscriptions (cheques), 805.
 Persia, 170.
 Person and Trinity, 117.
 Personal, 563, *579.
 Personality, 431-456, 984-986.
 Persons, 7.
 — artificial, 430.
 — law of, 429-556, 984-994.
 — natural, 431-535, 984-993.
 Peru, 306, 308, note; 976.
 Peter the Great, 198.
 Peter II, of Russia, 198.
 Petit, 258, note.
 Petitio hereditatis, 1009.
 Petrarch, 219.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Philanthropy, Roman, 150, 540.
 Philip II, of Spain, 276, 296, 297.
 — V, of Spain, 295, 301.
 Philippine Islands, 310, 958, 977.
 — law, 983-1018.
 Philoxenus, 169.
 Phocas, 169.
 Phoenicia, 18, 943.
 Photius, 180, note.
 Phyrus, 42.
 Physicians, Roman, 747, 954.
 Pia causa, 540, 659, note.
 Pickering, John, 412.
 Pietas, 151, 750, note.
 Pignoris capio, 834, 1018.
 Pignus, 612-624, 759, 996, 1005.
 Pious use, see *Pia causa*.
 Piracy, 916.
 Pisa, 209, 214.
 Pithou, 245.
 — François, 241.
 — Pierre, 241, 384, note.
 Pius X, Pope, 230, note.
 Pizarro, 306.
 Placentinus, 213, 237.
 Plagium, 926, 1023.
 Plainiff, 838, 864.
 Plato, 3.
 — Roman jurist, 137, note; 169.
 Plautius, 88.
 Pleadings, 122, note; 741, 743, *846,
 *848, *851, *853-*857, 868,
 1018.
 Pleas, dilatory, 857.
 — in abatement, 857.
 — in bar, 857.
 — to the action, 857.
 Plebeians, 31, 36-37, 462, 471, 545.
 Plebis concilium, 49.
 Plebiscita, 49, 111.
 Plebs, 910.
 Pledge, *612-*624, 759, *996, 1005.
 Plus petitio, 865, 1018.
 Poenae, 913-914, 1023.
 Poisoning, 923.
 Poland, 200, 961.
 Pole, Cardinal, 384.
 Police, 878, 897, 908.
 Polish language, 318.
 Pollicitationes, 808, 1014.
 Pollock, Sir Frederick, 411.
 Polygamy, 461.
 Pomponius, 32, 53, 75, *101, 421.
 Pontifex maximus, 55, 876.
 Pontifices, 45, 841, 910.
 Poor, 939.
 Poor-house, 450.
 Pope, 208, 215, 220, 225, 273, 377,
 note; 380, note.
 Populus, 910.
 Portalis, 254.
 Portio legitima, see *Pars legitima*.
 Portoria, 939, note.
 Porto Rican law, 983-1018.
 Porto Rico, 310, 977.
 Portugal, 219, 258, *276-*277, 278,
 296, *973.
 Possessio ad interdicta, 578.
 — bonorum, 672.
 — See also *Bonorum possessio*.
 — longi temporis, 646, 649, note.
 — naturalis, 576.
 Possession, 550, *575-*581, 578, 613-
 615, 646, 788, 793, *995.
 — adverse, 577, 648.
 — legal or juridical or civil or ad-
 verse, 577.
 Possessor bonorum, 672.
 Positive servitudes, 599.
 Postal service, 939, 1024.
 Post-Basilica Roman law, 177-182,
 *418, 955.
 — Glossators, 216.
 — Justinian Roman law, 153, 166-
 183, 187, 189, 194, 195, 197,
 *418, *955.
 — Nati case, 390.
 — roads, 939, 1024.
 — Theodosian Novels, 128, 951.
 Postponements of court, 1019.
 Posthumous children, 450, 675, 696,
 702, note; 987.
 Postulatio, judicis, 843.
 — rei, 935, note.
 Potestas abstinendi, 666.
 Pothier, 243, *250, 264.
 Praefectus annonae, 108, note; 898,
 1019.
 — Augustalis, 890, 945, 1019.
 — Caesaris, 910.
 — praetorio, 98, 99, 108, 135, 514,
 805, 895, *896, *1019.
 — urbi, 514, *895, *1019.
 — vigilum, 897, 945, 1019.
 Praescriptio, 645, note; 646, 848.
 — immemorialis, 656, note.
 — indefinita, 656, note.
 — prejudicii, 645, note.
 — fori, 645, note.
 — longissimi temporis, 649, note.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Praescriptio temporis*, 645, note; 848.
Praedial servitudes, 595-600, 996.
Praedium, 793, note.
Praelegata, 1001.
Praeses, 120, *890, 945, *1019.
Praesentinus, 169.
Praesumptio Muciana, 476, note.
Praetor, 40, 837, 849, *877, 881, 885, *887, 945, *1019.
 — for citizens, see *Praetor urbanus*.
 — for foreigners, see *Praetor peregrinus*.
 — *peregrinus*, 41, *43, 61, 846, 877, 880, note; *887.
 — *tutularis*, 519, 993.
 — *urbanus*, *40, 61, 846, 877, *887.
Praetorian edict, 41, *60-61, 89, 112, 137, 156, *946.
 — law, 41, 50, *419, 672, 687, 745, 817.
 — prefect, see *Praefectus praetorio*.
Praevaricatio, 919, 1023.
Presbyterian Church, 963.
Presbyters, Roman, 953.
Precarium, 763.
Preces imperatori oblatæ, 894.
Precious stones, 631.
Pre-emption, 604, 608, 609, note.
Prefecture, 120.
Preferred claims, 622, 624.
Prescription, 454, note; 473, 550, 574, *577-581, 584, 585, 596, 603, 618, 619, 626, 627, *645-656, *998.
 — extinctive, 647, 745.
Presumptions, 455, 861, 1018.
Pretium, 784, note.
Price (sale), 784, 1010.
Priests, 1026.
Princes, 55, *894, *1019.
 — *Juventutis*, 55, note.
 — *Senatus*, 55, note; 114.
Principal and accessory, 635, 742.
 — and agent, 800-802, 1013.
 — and surety, 768-772, 1008.
 — sum of money, 755.
Principate, 55, 121.
Prisoner of war, 437, 488, note; 634.
Prisons, private Roman, 152, 872, note; 1003, 1023.
Private law, 6, 427-872, 984-1018.
Privatrecht, 326.
Privileged communications, 846.
Privilegia or privileges, 622, 996.
Privy Council Judicial Committee (British), 14.
Prize, law of, 399.
Procedure, admiralty, 853.
 — civil, 835-872, 1018.
 — criminal, 923, note; 930, note; 932, note; *934-938.
 — extraordinary (*extra ordinem*), 840, 850, *851-872, 906, note; *1018.
 — formulary, 840, *846-850, 857, note; 865, 881, 901, *1018.
 — *legis actiones*, *840-846, *1018.
 — ordinary, 840-850, 1018.
 — Roman Republican civil, 122.
Proceedings in judicio, 122, note.
 — in *jus*, 122, note.
Prochiron, 175, 182, 955.
 — *auctum*, 181.
Procinctu, 684.
Proconsul, 55, *882, *890, 945, *1019.
Procopius, 167, note.
Proctor, 855.
Proculian school of Roman jurists, 74, 90, 154.
Proculus, 74, *102, 761, note.
Procurator, 855, *890, 935, 1018, *1019.
 — *Caesaris*, 899, 1019.
Prodigals or prodigi, 445, *533-534.
Professio donationis apud acta, 659, note.
Professor, law, 155, note; 906.
Professors, Roman, 74, 135, 155, 954.
Professorship, Regius, English, 384.
Profits à prendre, 655.
Prolytae, 162.
Promises, religious, 808, 1014.
Promptuarium, 182.
Property, 7, 151, 509, 512, 513, 517, 550, 557, 571.
 — common or joint, 796, 1012.
Propraetor, 882, 890, 1019.
Proprietas, 572.
 — *nuda*, 572, note.
Proof, 1018.
 — burden of, 860, 935.
Prosdocius, 137, note; 169.
Proscribed property, 939, 1024.
Proscription, 939, 1024.
Prosecution, criminal, 935, 937.
Prostitution, 462, 514, 1023.
Protestant Churches, 226.
 — *Episcopal Church*, 963.
 — *Reformation*, 273, 323, 359, 411.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Provence, 239.
Province, 120.
Provinces, Roman, 442-443.
Provincial governors, Roman, 120,
 *882, *890, *1019.
Provocatio, 885, 934, note.
Proxenetæ, 800, note; 1013.
Proxy, marriage, by, 468.
Prudence, 732.
Prussia, 330, 341, 342.
Psellus, 179.
Puberty, 467, 522.
Public domains, 939, 1024.
 — games, 939, 1024.
 — and Imperial domains, 939, 1024.
 — lands, 634, 939, 1024.
 — law, 427, 873-940, 1019-1027.
 — slaves, 680, note.
 — works, 939, 1024.
Publicani, 548.
Publication of laws, 423.
Puchta, 347.
Puerto Rico, see Porto Rico.
Pufendorf, 274, 329.
Pupillaris substitutio, 693, 1001.
Pupillus, see Ward.
Punishments, 913-914, 1023.
Purchase, see Sale.
Pussort, 251, note.
Pythagoras, 23.

Q

Quadripartitus, 366, note.
Quadruplicatio, 857.
Quaestio, 881, 935, note.
 — extraordinaria, 880.
Quaestiones perpetuae, 880, 885, 891,
 *934-*935, *936, 1023.
Quaestor, *882, *891, 910, 945, *1019.
 — sacri palatii, 894, 1019.
Quality of thing sold, 790, 1010.
Quarta, 697. See also Fourth.
Quasi contracts, 725, 809-812, 1015.
 — delicts, 725, 833-834, 1017.
 — pupillary substitution, 694.
 — usufruct, 587.
Quattuorviri, 120, 910, 911.
Quebec, 258, 262, 966.
 — law, 983-1018.
Querela inofficiosi testamenti, 697,
 notes; 701.
Questions, leading, 864.
Quinquennales induciae, 717, note.
Quintuplicatio, 857, note.

Quiritary law, 40, *419.
 — ownership, 573, 879.
Quirites, 40.

R

Ranconnet, 241.
Rape, 152, 823, 925, 1023.
Rapina, 826-827, 929, 1016, 1023.
Raptus mulierum, 925, 1023.
Rate of interest, 755.
Ratification, 801, 1013.
Rationales, 899, 1019.
Ravenna, exarchate of, 206, note;
 207, 210, note; 241, notes.
 — law school of, 155, 207, 210.
Raynolds, E. V., 11.
Real, 563, *569.
Reason, universal, 64.
Rebuttal pleadings, 857.
Rebutter, 857.
Receipt, 729.
Receptio arbitri, *740, 807, 836, *1002.
 — nominis, 935, note.
Reception of Roman law into England,
 377.
 — — — — Germany, 321-325,
 339, 377.
 — — — — Switzerland, 357.
Recission, 1002.
Rechtsbuch nach Distinctionen, 318,
 note.
Recipere inter reos, 935.
Recitatio, 659, note.
Recopilación, 276.
Recopilación de las leyes de las Indias,
 299, 307, 309.
Recording of gifts, *659, 660.
Rector, 120, *890, 1019.
Recuperator, 849, 881.
Redemption, equity of, 616, *621.
Redhibition, 790.
Reditus, 602, note.
Referre in reos, 935, note.
Referee (judex), Roman, 122.
Reformation, Protestant, 273, 322,
 359, 411.
Registration of gifts, 659, 660.
Regius professorship, English, 384.
Regula Catoniana, 710.
Reichskammergericht, 231, 322.
Reichsteige, 318, note.
Reitz, 266.
Rejoinder, 857.
Relatio, 870, 894, 1018.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Relationship, 462-465.
 Release, 619, *735, 1002.
 Relegation, 452, note; 914.
 Relevatio, 939, 1024.
 Religion, 933, 1023.
 Religious associations, 539.
 Remarriage, 482.
 Remissio, 585, 597, 619, 996.
 Renaissance, 183.
 — in France, 241.
 Renascence, see Renaissance.
 Rent, 793, 910.
 Renunciation, 585, 597, 603, 619, 803.
 Repairs, 793.
 Repeal of laws, 426.
 Replication, 857, 1018.
 Representation in agency, 802, 1013.
 — in court, 855.
 — in succession, 675.
 Repudiation, 150, note.
 Repudium, 487, 989.
 Rerum universitas, 661, note.
 Res, 558-571, 995.
 — accessoriae, 568.
 — communes, 560.
 — consumable and non-consumable, 565.
 — corporales, 562.
 — derelictae, 571.
 — divisible and indivisible, 564.
 — extra commercium, 537, 560, 650, note.
 — extra patrimonium, 560.
 — fungible and non-fungible, 566.
 — habiles, 650.
 — immobiles, 563.
 — in commercio, 561.
 — in patrimonio, 561.
 — incorporales, 562.
 — inhabiles, 560, note; 650, note.
 — judicata, 743, 870, note; 1018.
 — Mancipi, 570.
 — mobiles, 563.
 — nec Mancipi, 570, 643, note.
 — nullius, 633.
 — principales, 568.
 — publicae, 560.
 — religiosae, 559.
 — sacrae, 559.
 — sanctae, 559.
 — singulae or singulares, 567.
 — universitatis, 567.
 — uxoria, 478, note.
 Rescission, *736, 785, 790, *1002, 1010.
 Rescript of Roman Emperor, 115, 494, 501, 894.
 Resignation, 803.
 Respondentia, 756.
 Responsa prudentium, *70, 74, 113, 123, 403, 946.
 Restitutio in integrum, *449, 527, 530, 531, 737, note; 748, note; 993, *986, 1002, 1018.
 — natalium, 494.
 Restitution, 517.
 Retroactive laws, 424.
 Reus, 838, 935, note.
 Revenue, 910.
 Revenues of the Roman State, 910, *939, 1024.
 Revillout, 16.
 Revival, 11th century, of Roman law, 179.
 — — — in Italy, 366, note.
 — 13th century, of Roman law, 200, 211-212, 231, 237, 265, 266, 275, 276, 287-288, 321-323, 357, 359, 369.
 — 16th century, of Roman law in England, 382, *384.
 — 19th century and present, of Roman law in England and the United States, 339, 411-412.
 — 19th century, of Roman law in Germany, 339, 340, 345-355.
 Revocation, 709, 803.
 — of gifts, 658, 660, 999.
 Revolution of 1789, French, 253.
 Rhetoric, 155.
 Rhodes, 21, 943.
 Rhodes Scholars, 412.
 Rhodian law, 812.
 Riccobono, 224, note.
 Richard I, of England, 370, 372, 422.
 Richard II, of England, 379.
 Rights in personam, 569.
 — in rem, 569.
 — obligatory, 569.
 Riot, 915.
 Risk, 787, 1010.
 Risorgimento, Italian, 223.
 Robbery, 827, 929, 1023.
 Roby, Henry John, 411.
 Roderic, 283.
 Romaic, 189, note.
 Roman Bar, 70, 137, note; *163, 855, *906, 914, 919, 935, *1019.
 — Catholic Church, 120, 215, *225-230, 282, 365, 379, *963.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Roman courts, 874-905, 1019.
 ——— Emperor, medieval, 322.
 ——— Empire, 54-184, 957.
 ——— Early, 55-119.
 ——— Later, 120-184.
 ——— medieval, 208, 230, 265, 266, 316, 356, 357.
 ——— population, 11.
 ——— Western, revived by Charlemagne, 208.
 ——— jurists, 137.
 ——— law, administrative, 120, 956.
 ——— ancient, 27, 29-45, 416.
 ——— ante-Basilica, 418.
 ——— ante-Hadrian, 948.
 ——— ante-Justinian, 416.
 ——— and ethics, 63.
 ——— as a local city law, 27, 29-45
 ——— as a world law, 28, 46-412.
 ——— Basilica, 418.
 ——— bibliography, 1027.
 ——— case-books, 76.
 ——— classical, 57, *416.
 ——— constitutional, 120, 956.
 ——— criminal, 152.
 ——— Early Imperial, 122, *416.
 ——— edictal, 60-61, 111.
 ——— fictions, 39.
 ——— influence on Christianity, 116-119, 950.
 ——— influence of Christianity on, 144-153, 953.
 ——— influence of Greek philosophy on, 62-67, 947.
 ——— influence of Stoicism on, 62-67, 947.
 ——— Justinianean or Justinian, 417. See also Justinianean Roman law.
 ——— Later Imperial, 120-184, *416, 955.
 ——— Later Republican, 416.
 ——— military, 120.
 ——— of property, 151.
 ——— post-Basilica, *418.
 ——— post-Justinian, 186, 189, 191, 194, 195, 197, *418.
 ——— professors of, 155. See also Romanists.
 ——— texts, 1027.
 ——— treatises, 76.
 ——— value of, 1-7, 360, 941.
 Roman-Dutch law countries, 266; 267, note; *268-*270, *970.

Romanists or Civilians, Austrian, 232 note.
 ——— English, 369, 374, 384, 386, 391, 411-412.
 ——— French, 241-250, 258, note.
 ——— German, 324-325, 327-329, 331-335, 340, 345-355.
 ——— in Holland, 266.
 ——— modern Italian, 224, note.
 ——— in Louisiana, 264.
 ——— Spanish, 292, 297, 300.
 Romans, 442.
 "Romans" (Greeks in Turkey), 189, note.
 Rome, 26-184, 416-418, 873-940, 1019-1026.
 ——— Early Empire, 946-951.
 ——— law school of, 154, 155, 204, 207.
 ——— Monarchy, 30-32, 944.
 ——— New, 121.
 ——— Republic, 34-53, 945.
 Romulus, 32.
 Roumania, 195, 960.
 Rousseau, 66, 252.
 Royal Fuero, 289.
 Rudolf I, 319.
 Ruiz, Jacomo, 292.
 Rural servitudes, 598.
 Rurik, 197.
 Russia, 196-200, 258, 961.
 Russian law, 983-1018.
 Rustici, 688.

S

Sabinian school of Roman jurists, 74, 80.
 Sabinians, 154.
 Sabinus, Caelius, 104.
 ——— Masurius, 68, 74, *103, 154, 761, note.
 Sachsenspiegel, 318, 322.
 Sacra privata, 496.
 Sacramentum, 842.
 Sacrilege, 930, 1023.
 Sailors, 1025.
 Salaminus, 169.
 Sale, 621, 716, note; *780-*791, 932, *1010.
 ——— of children, 508, 510, 992.
 Saleilles, 256, 258, note.
 Sales Acts, uniform, 790, note.
 Salkowski, 355.
 Salvador, 308, note.
 Samaritans, 953, 1026.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028,

- Sancho the Great**, 284.
Sancta Sophia, church of, 134.
Sanguinolentes, 92.
Sanity, 445.
San Marino, 205, 962.
Saracen, see **Mohammedan**.
Sark, 260, 966.
Sasychis, 17.
Satisfatio, 517, 519, 993, 1018.
Savary, 251, note.
Savigny, 256, 338, 339, 341, *346, 347.
Saxony, 341, 342.
Scaevola, Q. Cervidius, 69, note; 75, 98, 99, *105, 805.
 — **Q. Mucius**, 51, 154.
 — **P. Mucius**, 53.
 — the **Pontifex**, 53.
 — the **Younger**, 53.
Scandinavian countries, 275, 972.
Schiller, 348, note.
Schleswig-Holstein, 341.
Schöffén, 317, note; 322.
Scholasticism, 218.
Schoia, 176.
 — **antiqua**, 178.
 — **later**, 178.
Schrader, 354.
Schulting, 266.
Schwabenspiegel, 318, 319.
Scotland, 359-360, 981.
Scrutton, 411.
Seashore, 560, 631.
Seal, 622, 687, 775.
 — **corporate**, 547, note.
Secretarium, 905.
Security, 855, 1018.
 — **by guardian**, 517.
Sedition, 915.
Seduction, 462, 823, 922, 926, note; 1023.
Selden, John, 391.
Self-defense, 821, 836, note.
Senate, Roman, 31, *49, 55, *111, *114, 115, 120, 121, *886, 892, 945, *1019.
 — **municipal Roman**, 910.
Senator, 881.
Senatusconsulta, 49, 114.
Senatusconsultum Afinianum, 697, note.
 — **Claudianum**, 720, 1001.
 — **de bacchanalibus**, 546, note.
 — **of Hadrian**, 61.
 — **Libonianum**, 1023.
 — **Macedonianum**, 755, 1003.
Senatusconsultum Orphitianum, 674, 1000.
 — **Pegasianum**, 699, note; 1001.
 — **Silianum**, 1000, 1001.
 — **Tertullianum**, 106, 674, 1000.
 — **Trebellianum**, 699, note; 1001.
 — **Turpillianum**, 919, note; 1023.
 — **Velleianum**, 476, note; 747, note *769, 988, *1008.
Seneca, 63.
Sentence, 935, 937.
Sententia, 847, 881, 1018, 1019.
Separatio bonorum, 664, 665.
Separation of the ancient Christian Church, 226, note.
Sept., 228, note.
Septenario, 289.
Sequestration, 758, 1004.
Serafini, 224, note.
Serbia, 195, 960.
Servia, see **Serbia**.
Servidumbres, 595.
Servient land, 595.
Servi poenae, 438, 452, note.
Servitù, 595.
Servius Tullius, 32.
Servitudes, 572, *582-624, 763, note; *996.
 — **in faciendo**, 599.
 — **in prohibendo**, 599.
Servitudes, 595.
Sesostriis, 17.
Session, Court of, 359.
Set-off, 741, 857, 1002.
Serверus, Roman Emperor, 128, 363, note.
 — **Alexander**, 57.
 — **Septimius**, 115.
Seville, 301, note.
Sewers, 908, 910, 1022.
Sext., 228, note.
Sextuplicatio, 857, note.
Seychelles, 258, 261, 966.
Shafei, 187.
Sherman, Charles P., 412, note.
Ships, 622, 802, 804, 1014, 1025.
Shogun, 311.
Shop, 802.
Siciliano-Villanueva, 224, note.
Siete Partidas, see **Partidas**.
Sigismund, 133.
Signature, 687, 853, note; 756, note.
Simplices, 445.
Sirmondian constitutions, 127, 951.
Sixtus IV, Pope, 228.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

- Slander, 820, 823.
 Slavery, Roman, 69, 146, 150, *434-
 *440, 461, 494, 528, 594, 680,
 681, 719, 720, 723, 774, 802,
 818, 828, 829, 864, 875, 913,
 935, *984, 1010, 1013, 1016.
 Smith, Thomas, 384, note.
 Socialism, Roman, 6.
 Social War, Roman, 47.
 Societas (corporation), 544.
 — (partnership), 795, 799, 1012.
 — Leonina, 797, note.
 — vectigalis, 796, note.
 Socii, 548, note.
 Socrates, 63.
 Sodales, 548, note.
 Sodalitates, 542, note; 544.
 Sodalitia, 544.
 Sodomy, 922, 1023.
 Sohm, 355.
 Solarium, 939, note.
 Solarius, 609, note.
 Soldiers, 516, 1025.
 Soldiers' and sailors' wills, 688.
 Solemnnes, 905, 1019.
 Solidi, 659, notes; 660.
 Solon, 24.
 Solutio, 729, 1002.
 — indebiti, 811, 1015.
 Sorbonne, 237, note.
 Sorel, 251.
 South Africa, *270, 398, 404, *970.
 Spadones, 461, note.
 Spain, 133, 219, 258, 263, 276, *279-
 *305, 306-307, 309, *975.
 Spanish America, 278, note; 299, 301,
 *306-*308, *976.
 — language, 308.
 — law, 309-310, 977, 983-1018.
 Sparta, 22.
 Specific performance, 122, note; 730.
 Specification, 641.
 Spectabiles, 120.
 Spendthrifts, 445, 516, 530, *533-*534.
 Spiegel der deutschen Leute, 318, note.
 Sponsalia, 459, 988.
 Sponsio, preceding 768, note.
 Sportulac, 854, note.
 Spurii, 492.
 Stable-keepers, 834.
 Stabularii, 834, note; 1017.
 Stair, 360, 981.
 Stanford Law School, 412.
 State as ultimate heir, 677.
 State laws, uniform American, 408.
 States are moral persons, 273.
 Status, 431, 432.
 — civitatis, 441-444, 985.
 — familiae, 457-535, 988-993.
 — libertatis, 434-440, 984.
 Statutes, 421.
 Stella, Pedrus, 241, note.
 Stellionatus, 931, 1023.
 Stephanus, 137, note.
 Stephen, 169.
 — King of England, 213, note; 369.
 — Sir James Fitzjames, 404.
 St. Germain, English jurist, 391, note.
 Stiles, President of Yale, 412.
 Stipendia, 939, note.
 Stipulation, 739, note; *767, 768,
 note; 773, *1007.
 — Aquilian, 767, note.
 Stirpes, 675.
 St. Lucia, 262, note.
 Stoicism, 62-67, 947.
 Stolen things, 650.
 Stoppage in transitu, 787.
 Story, John, 384, note.
 Stowell, Lord, 384, note; 399.
 Strategia, 173.
 Stratores, 1024.
 Streets, 908.
 Studemund, 354.
 Students, domicil of, 444.
 — Roman, names of classes of, 162.
 Stulti, 445, note.
 Stuprum, 922, 1023.
 Suarez, 300.
 Subletting, 793.
 Subpoena as to uses, English, 379.
 Subrogation, 739.
 Subscriptio, 136, 886, note; 935, note.
 — (Wills), 687, note.
 Substitutions, 692-695, 1000, 1001.
 Suburbs, 910.
 Succession, 602, 504, 624, 1022, 1025.
 — of husband and wife, 482.
 — intestate, 551, *670-*677, 714,
 879, *1000.
 — singular, 625.
 — testate, 678-715, 1001.
 — universal, 574, 625, 661-723,
 1000-1001.
 Suggestio falsi, 830, note.
 Suicide, 923.
 — punished by Roman law, 152.
 Sui et necessarii heredes, 666.
 Sui heredes, 666, 1000.
 Sui juris, 446, *457, 505, 992.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Sulla, 909.
 Sulpicius, 53.
 Summa, 210, 213, 376.
 Summons or citation, 820. See also Libel.
 Sumptuary laws, 1024.
 Sunday observance, 146.
 Superficies, 609-611, 996.
 Superindiction, 939, 1024.
 Supernumerarii, 906.
 Supplicatio, 894.
 Suppressio veri, 830, note.
 Suretyship, 476, 590, 705, note; *768-772, *1008.
 Surrebutter, 857.
 Surrejoinder, 857.
 Survivorship, 455, 691, 708.
 Svod, 199.
 Sweden, 258, 275, 972.
 Swiss cantonal codes, 258, note.
 — law, 313, 983-1018.
 Switzerland, 356-358, 407, 980.
 Symbatus, 169.
 Syndicus, 554, 912, note.
 Syngrapha, 777, 1009.
 Synopsis Basilicorum or Synopsis major, 178 and note; 182.
 — legum, 179.
 — major, 178, note.
 — minor, 181, 182.
 Syrian-Roman Law-Book, 131, 951.

T

Tabellio, 622, note; 659, note; *907-1019.
 Table of contents, 1028.
 Tables, Amalfian, 214.
 — of Gortyna, 20, 38, 943.
 — Twelve, 36-39.
 Tabularius, 622, note; 664, note; *907, *1019.
 Tarik, 283.
 Tarquin Kings of Rome, 35.
 Tarsus, 442, note.
 Tavern-keepers, 834.
 Taxation and taxes, 6, 548, 622, 624, 669, 909, 911, 918, *939, *1024.
 Taxes, remission of, 1024.
 — on sales, 780, note.
 Tenancy for years, 586.
 Tenant, 793.
 Tender, 734, 1002.
 Terentilius Arsa, 37.
 Tergiversatio, 919, 1023.
 Tertullian, 106, 118.
 Testament, Old, 129.
 Testament or testamentary succession, see Wills.
 Testamenti factio activa, 680.
 — — passiva, 682.
 Testamentum inofficiosum, 701.
 — irritum, 702, note.
 — ruptum, 702, note.
 Testate succession, 678-715, 1001.
 See also Wills.
 Teutonic, 315, note.
 Teutonic law, 133, 357, 750, note; 834.
 Texas, 309, 977.
 Textbook system of teaching law, American, 165.
 Texts of Roman law, 1027.
 Thalelaeus, 169.
 Theft, 650, 825, 834, *929, 930, *1023.
 Theme, 173.
 Theobald, 213.
 Theodore, 169.
 Theodoric, 133.
 Theodosian Code, *127, 132, 133, 136, 153, 353, *951, 994.
 Theodosius II, 125, 127, 128, 212.
 — the Great, 145.
 Theopemptus, 197.
 Theophilus, 135, *136, *137, *138, *169, 573, note; *995.
 Thesaurus, 632, 997.
 Thibaut, 338, 341, 346, *348.
 Things, 558-571, 995. See also Res.
 Thomas, 169.
 Thomasius, 332.
 Thornton, Chief Justice, 376.
 Thrace, 173.
 Thurlow, Lord, 710.
 Tiberius Coruncianus, 45, 906.
 Tillet, Du, 241.
 Time, 654-655, 998.
 Timotheus, 137, note; 169.
 Title, 653, 655, 786.
 Title-deeds, 618.
 Tokyo, law school of, 311.
 Toledo, 483, note.
 Toro, 295, 297.
 Torquemada, 292.
 Torts, 553, 728, *813-*832, 833, 929, note; *1016, 1017, 1025.
 Torture, 152, 864, note; 935.
 Tours, 283.
 Towns, 908-912, 1022.
 Trades-union, 541.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Trades-unionism, 6.
 Traditio, 626, 627, *642-643, *997.
 — brevi manu, 643.
 — longa manu, 643.
 Trajan, 57, 78.
 Trajecticia pecunia, 756, 806, note; 1003.
 Transactio, *738, 762, 1002.
 Transfer, 642.
 Transmissibility, 728, 1002.
 Treason, 880, *915, 934, 1023.
 Treasure trove, 632, 997.
 Treaties and contracts, 273.
 Treatises on Roman law, 76, 1027.
 Treaty, 909, note.
 Trebatius, 53.
 Trent, 228, 475, 483, note.
 Trial, 858-869, 935, 1018.
 Tribonian, 135, *136, *137, *138, 148, 169, 347.
 Tribonianisms, 137.
 Tribunals, see Courts.
 — mixed, Egyptian, 191.
 — — Turkish, 189.
 Tribune, 55.
 — of the plebs, 35, 876, 885, *888.
 Tribuni, 907, note.
 Tribus, 49, note.
 Trinidad, 308, note.
 Trinity, 118, 148, 953.
 Tripartite will, 687.
 Tripertita of Aelius, 45, note.
 Triplication, 857, 1018.
 Tronchet, 254.
 Trover for conversion, 825.
 Trustee in bankruptcy or insolvency, 535.
 Trusts, 551, 695, 699, *704, *712-713, 714, 850, note; 912, *1001.
 Trust-bequest, see Trusts.
 Truth, 820, note; 830.
 Tryphoninus, 107.
 Tsar, 197.
 Tubero, 53.
 Tucca, 53.
 Tutela, *520-527, 879, *993.
 — impuberum, 522-527, 993.
 — mulierum, 528, 993.
 Tutor, 517.
 Tutores dativi, 525, 993.
 — fiduciarii, 526, 993.
 — legitimi, 524, 993.
 — testamentarii, 523, 993.
 Tutorship, 520-527, 993.

Turkey, 189, 258, 958.
 Turkish conquest of Eastern Roman Empire and Constantinople, 183.
 Turpido, 453.
 Twelve Tables, 36-39, 841, 945.
 — — of Gortyna, 20, 38, 943.

U

Ugo, 213, note.
 Ulpian, 3, 66, 75, 94, 98, *108, 123, 129, 130, 137, 155, 156, 363, 420, 627, 724, note; 806, 896, 906.
 Unciae, 690.
 Undervalue, 785, 1010.
 Uniform State Laws, American, 408.
 United States, 263-264, 392, 396, *405-410, *412, 967, *982.
 — — Supreme Court, 14.
 Universal succession, 574, 661-723, 1000-1001.
 Universitas (corporation), 544, 545.
 — rerum, 661, note.
 — (succession or inheritance), 545.
 — (things), 567.
 Universities, American, 412.
 — Belgian, 265.
 — Dutch, 266.
 — English, 369, 382, 384.
 — French, 237.
 — German, 321, 346.
 — Greek, 954.
 — Italian, 200, 212.
 — Japanese, 311.
 — Portuguese, 276.
 — Scandinavian, 275.
 — Scotch, 359.
 — Spanish, 288.
 — Spanish-American, 308, note.
 — Swiss, 357.
 — of United States, 412.
 University courts, English, 380.
 Unskillfulness, 832.
 Unwritten law, 422.
 Urban servitudes, 598.
 Urban VI, Pope, 228.
 Uruguay, 308, note; 976.
 Use, see Usus.
 User, 585, 597.
 Uses, Anglo-American, 713.
 — English, 379.
 — Statute of, 385.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Usucapio, 626, 649, note; *646, 654, 998.
 Usufruct, 454, note; 478, note; 502, note; 512, *586-*591, *996.
 Usurae, 755, 1003.
 — usurarum, 755.
 Usureceptio, 650, note.
 Usurpatio, 651, note; 998.
 — trinoctii, 473, note.
 Usus, or use, 473, *592, *996.
 Usus modernus Pandectarum, 322.
 Uxor, 474, note.

V

Vacarius, 213, 369.
 Vadium, 759, 1005.
 — mortuum, 617, note.
 Valbuena, 292.
 Valencia, 284.
 Valenti, Spanish jurist, 292.
 Valentinian, I, 130.
 — III, 122, 125, 127, 128.
 Value of legal history, 8-15, 942.
 — of Roman law, 1-7, 360, 941.
 Vangerow, 355.
 Variance, 865, 1018.
 Varus, 53.
 Vatican Fragments, 130, 951.
 Vetricinatores, 933, 1023.
 Vattell, 274.
 Vectigal, 602, note.
 Venditio, see Sale.
 — bonorum, see Bonorum venditio.
 Venezuela, 306, 308, note; 976.
 Venia ætatis, 448, 986.
 Venice, 206, note; 214.
 Venuleius, 109.
 Verdict of jury, 935, 938.
 Verona MS of Gaius, 86.
 Versura, 755.
 Vespasian, 81.
 Vestal virgin, 462, note; 514, 528.
 Veterani, 1025.
 Vectigalia, 939, note.
 Veto, 35, 55, 876.
 Vicar, 890, 1019.
 Vicarious slave, 436, note.
 Vici, 908.
 Vico, 220.
 Vindicatio, 824, note.
 Vindicta, 514.
 Vinnius, 266, 270.
 Violence, 826.
 Vis, 748, 831, 1002, 1016.

Vis major, 747, 1002.
 Visigothic Code, 281.
 Visigoths, 133.
 Vitoria, 300.
 Vivès, 384.
 Vivexro, De, 300.
 Vivian, 110.
 Vladimir, 197.
 Vocatio in jus, 854, 1018.
 Voet, 266, 270.
 Voigt, 355.
 Voltaire, 252, 254.
 Vota, 808, 1014.
 Voting (jury), 935.
 Vows, 808, 1014.
 Vulgaris substitutio, 692, 1001.
 Vulgo concepti, 492, 496, note.

W

Wages, 792.
 Waifs, 633, note.
 Walker, Sir Walter, 675.
 Walton, Frederick P., 412.
 War, 438, 634, 1025.
 Ward, see Guardianship.
 Warranty, 789-790, 793, 1010.
 — of possession (sale), 789, 1010.
 — of quality (sale), 790, 1010.
 Waste, 517, 604, 605.
 Weichbild, 318, note.
 Western Europe, 143, 185.
 — Roman Empire, medieval, 208.
 Westphalia, 336.
 Wheeler, Albert S., 12, note; 412.
 Widow, 151, 474, note; 479, *676.
 Wild animals, 629, 997.
 Will, of the blind, 688.
 — calatis comitiis, 683.
 — of illiterates, 688.
 — in procinctu, 684.
 — Justinianean, 687-688.
 — nuncupative, 688.
 — oral, 688.
 — per aes et libram, 685.
 — praetorian, 686.
 — soldiers' and sailors', 688.
 — written, 687.
 William of Malmesbury, 369.
 William II, of Germany, 344.
 William the Conqueror, 366, note.
 — — and his sons, 368.
 Williams, James, 411.
 Wills, 7, 25, 385, 501, 523, 551, 584, 596, 603, 618, *678-*715, 907, 931, *1001, 1023.

(The numbers refer to sections)

(Vol. I, §§ 1-412; Vol. II, §§ 413-940; Vol. III, §§ 941-1028)

Wilson, James, 412.
Windscheid, 355.
Wisby, laws of, 251, 320.
Witnesses, *864, 867, 869, 935, 1018.
—— (wills), 681, 687.
Wlassak, 232, note.
Wolff, de, 274.
Wolsey, Cardinal, 379, 384.
Women lawyers, 855, 906.
Women's rights, 7, 476, 501, 528, 747,
769, 855, 906.
Writs, English, 371, 379.
Written law, 421.
—— French, 239, 240.
—— wills, 688.
Wythe, 412.

X

Xvag., 228, note.

Y

Yale College, 412.
—— Law School, 412.
Year Books, English, 384, note.
Yeto, 311.
York, 363, 367.
Yucatan, 306.

Z

Zachariae von Lingenthal, 354.
Zaleucus, 23.
Zasius, 242, note; 323, *324, 384.
Zeno, 63, 604.
Zouche, 274, 384, note; *391.
Zurich, code of, 357.

END OF VOL. III

SUPPLEMENT OF THE INDEX TO VOLS. I-III

(The numbers refer to sections)

(Vol. I, § § 1-412; Vol. II, § § 413-940;

Vol. III, § § 941-1028)

Alsace, 344, note.
Austria, 195.
Bohemia, 232.
Bosnia, 195.
Croatia, 195.
Croats, Kingdom of, 195.
Czechoslovakia, 232.
Dalmatia, 195.
France, 344, note.
Herzegovina, 195.
Holland, 344, note.
Hungary, 195.
Jugoslavia, 195, 232.
Lenin, 199.

Lorraine, 344, note.
Moravia, 232.
Nicholas II, 199.
Russsia, 232.
Serbs, Kingdom of, 195.
Silesia, 232.
Slavonia, 195.
Slovakia, 232.
Slovenes, Kingdom of, 195.
Soviet Republic, Russian, 199.
Trotzky, 199.
William II, 344, note.
Yugoslavia, 195, 232.

VOLUME III

APPENDIX I

HOW THE CORPUS JURIS CIVILIS
OF JUSTINIAN IS CITED

Abbreviations for the Code, Digest, Institutes, and Novels. The medieval and modern abbreviations "C.," "Cod.," "Code," refer to the Code; "D.," "Dig.," "P.," refer to the

Digest or Pandects: "I.," "Inst.," to the Institutes; and "N.," "Nov.," to the Novels.⁶¹⁸ The Novels are cited by the number, chapter, and section: for instance "Novel 118, 3, 1, or § 1."

The abbreviations "l." or "L.," stand for "law" (lex) or "constitution," and refer to a law of some title in the *Code* or *Digest*: For instance "Code, 1, 4, 23" = Code, book 1, title 4, law 23; "Dig. 1, 3, 13" = Digest, book 1, title 3, law or fragment 13. The abbreviation "fr." stands for fragment, and refers to a fragment or law of some title in the Digest: For instance "Dig. 1, 3, 18" = Digest, book 1, title 3, fragment 18.

The abbreviation "§" refers either to some section of a title in the Institutes, or to some section of a law or fragment in the Code, Digest, and Novels:⁶¹⁹ For instance "Inst. 2, 7, § 1" = Institutes, book 2, title 7, section 1; "Dig. 1, 3, 32, § 3" = Digest, book 1, title 3, fragment 32, section 3.

The abbreviation "pr." means "principium," and refers either to the first sentence preceding the first section of a title in the Institutes, or to the first sentence preceding the first fragment of a title in the Digest: an illustration is "Dig. 1, 3, 32, pr."

The modern mode of citing the Corpus Juris. To the historian Gibbon, whose most brilliant chapter forty-four of his "Decline and Fall of the Roman Empire" was for years a Roman law text-book at continental European universities, is due the credit and honor of shaking off the pedantic yoke of citation as established by the medieval civilians. Gibbon "dared to adopt the simple and rational method of numbering the book, the title, and the law cited."⁶²⁰ His example was followed by Hugo and other modern civilians until it is now the universal practice to cite the Corpus Juris as part such and such, such and such a numbered book, title, and law, frag-

⁶¹⁸ On the entire subject of abbreviations and modes of citation of the Corpus Juris, see Hunter, *Roman law*,⁴ p. xi; Sohm (Ledlie") *Roman law*, pp. 16-17; Girard, *Manuel de droit romain*,⁵ pp. ix-x; Mackenzie, *Roman law*,⁷ p. 32.

⁶¹⁹ The use of the section abbreviation is very frequently omitted,—see illustrations in the text.

⁶²⁰ "Decline and fall, etc.," vol. 4, ch. 44, note 1.

ment, or section. For instance "Dig. 50, 17, 1" means Digest, book 50, title 17, fragment 1.

There are these slight differences in the mode of citation between the Anglo-American and German practice: (1) The **German usage** is to start first with the law, fragment, or section—which is just the opposite of the **Anglo-American usage**. The **French usage** is like the Anglo-American. To illustrate: "Dig. 17, 1, 2, pr." (Anglo-American and French mode of citation) would be cited by German writers "L. 2, pr. D. 17, 1"; "Code, 4, 34, 11, 1" (Anglo-American and French mode of citation) would be cited by German writers "L. 11, § 1, C. 4, 34"; "Inst. 2, 7, pr." (Anglo-American and French mode of citation) would be cited by German writers "pr. I, 2, 7."

(2) Sometimes the German usage as to citing the particular part of the Corpus Juris (Code, Dig., etc.) is to add the title right after the part and put the numbers of the book and title in brackets—for instance⁶²¹ "pr. I. de donat. (2, 7)."

The medieval mode of citing the Corpus Juris. The medieval way of citing the Corpus Juris is as follows: a citation begins with a numbered law, fragment or section, followed by mention of the part of the Corpus Juris to which the law, fragment, or section belongs, and the citation ends by giving the title wherein the law, etc., will be found; but the book of which this title forms a part is not given at all. For instance "l. 8. C. de praescript. long. temporis" is an illustration of the medieval mode of citation.

To find the book to which a title cited belongs and to convert the medieval mode of citation into the modern, search the Index of Titles as given in the front of volumes I-II of Krueger and Mommsen's edition of the Corpus Juris to locate the title cited: the index of titles should disclose the number of the book of the Code, Digest or Institute to which the title belongs. For instance "l. 8. C. de praescript. long. temporis" = Code, 7, 33, 8; l. 38, § 1. D. ad leg. Jul. de adulteriis" = Digest, 48, 5, 38, 1. There are several thousand

⁶²¹ See Sohm (Ledlie⁸), *Roman law*, p. 16.

titles in the Corpus Juris. Brissonius,⁶²² whose Civil Law dictionary published in the 16th century is still to-day the best on Roman law, employs the medieval mode of citation.

⁶²² The French jurist Brisson, died 1591, was the Advocate-General of Henry III, and was murdered by the League party: Culquhoun, *Roman law*, § 175.

VOLUME III

APPENDIX II

HOW THE MEDIEVAL CORPUS JURIS

CANONICI IS CITED

The Corpus Juris Canonici. One of the great although indirect results of the Bologna revival of Roman law study was the full maturing of the Western Roman Canon Law, which in the 12th century had become largely codified,—the complete codification receiving the name of *Corpus Juris Canonici*. This code of the Latin Church was the supreme ecclesiastical law of **all Western Europe**, in force long before

the 16th century Protestant Reformation divided the Roman Church and Western Christendom.

The Corpus Juris Canonici is a counterpart of the Justinian codification as to name. The appellation "Corpus Juris Canonici" to denote the law of the Western Roman church was officially sanctioned in the 16th century by Gregory XIII.⁸ But this expression was in common use much earlier; and from the middle of the 13th century it was employed⁹ in sharp contradistinction to the Roman law, collectively described as the Corpus Juris Civilis.¹⁰

The Corpus Juris Canonici is a counterpart of the Justinian codification as to form. Parts of the Corpus Juris Canonici. In imitation of Justinian's monumental work, the Corpus Juris Canonici is arranged in four parts: Decree, Decretals, Extravagantes, and Institutes, which is their chronological order.

1. **The 12th century Decree (Decretum Gratiani).** This part of the Corpus Juris Canonici corresponds to the Digest of Justinian. It was prepared and published by Gratian, a Benedictine monk of Bologna, and embraces all the previous law of the Church prior to 1140 contained in acts of councils, decrees of Popes, and earlier compilations of ecclesiastical law.¹¹

2. **The 13th and 14th century Decretals (Decretales).** This part of the Corpus Juris Canonici corresponds to the Code

⁸ July 1, 1580, in "Cum pro munere." See 4 *Cath. Encycl.*, p. 391, New York, 1907-14.

⁹ Gratian's *Decretum* was already called "Corpus Juris Canonici," by a 12th century Glossator; and in the next century Innocent IV, in 1253, calls by this name the Decretals of Gregory IX. See 4 *Cath. Encycl.*, p. 391.

¹⁰ This term was definitely used by Godefroy in the 16th century.

¹¹ **Gratian's Decretum** is divided into three parts, which are cited as follows:

(a) Part I—**Distinctiones**. Is cited by the number of *Distinction*, and initial words or number of *canon* (frequently the reverse order, beginning with *canon*, is used): e.g. "Exemplo Danielis, c. 11, D. 37."

(b) Part II—**Causae**. Is cited (except Causa 33, quaestio 3) by *Causa*, *quaestio*, and *canon* (frequently the reverse order, beginning with

of Justinian. It consists of the statutes or decretals of Popes Gregory IX,¹² Boniface VIII,¹³ and Clement V.¹⁴

3. **The 14th and 15th century Extravagantes.** This part of the Corpus Juris Canonici corresponds to the Novels of Justinian. It consists of the decretals of Popes John XXII,¹⁵ and others from Urban VI to Sixtus IV.¹⁶

4. **The 16th century Institutes.** This is virtually a fourth part of the Corpus Juris Canonici, and corresponds to the Institutes of Justinian. To complete the grand canonical codification, Pope Paul IV¹⁷ ordered the renowned canonist **Lancelot**¹⁸ to prepare Institutes of Canon Law; Lancelot's elementary treatise¹⁹ published in **1563** forms a part of many

canon, is used): e.g. "Non denegetur, c. 20, C. 2 (= causa 2), qu. 6." But Causa 33, quaestio 3 is cited like Part I, with addition of the words "de poenitentia" after the *Distinction*: e.g. "Dixi confitebor, c. 4, D. 1 de poenit."

(c) Part III—**De consecratione.** Is cited like Part I, with addition of the words "de consecratione" after the *Distinction*: e.g. "Per orbem, c. 26, D. 3 de consecrat."

¹² "Quinque Libri Decretalium Gregorii Noni" or "**Liber Extra**," 1234. Are cited by *original name* of Liber Extra (abbreviated to X), *book*, *title*, and *chapter* (frequently the *chapter* comes first): e.g. "chap. 9, X., lib. iv, tit. 13."

¹³ "**Liber Sextus Decretalium**," 1294. Are cited by *original name* of Liber Sextus (abbreviated to *in Sext.* or *VI*), *book*, *title*, and *chapter* (frequently the *chapter* comes first): e.g. "cap. 1, in Sext., lib. i, tit. 2 de constitutionibus."

¹⁴ "Clementis vel Clementinae Constitutiones" or "**Liber Septimus Decretalium**," 1313. Are cited by *original name* of Liber Septimus (abbreviated to *in Sept.* or *VII*) or by *later name* of *Clementinae*, *book*, *title*, and *chapter* (frequently the *chapter* comes first): e.g. "cap. 1, in Sept. (or Clement.), lib. i, tit. 1 de summa trinitate."

¹⁵ "**Extravagantes Johannis XXII**," 1340. Are cited by *name* abbreviated to *Extr.* or *Xvag.*), *title* and *chapter* (frequently the *chapter* comes first): e.g. "cap. 1, Extr. (or Xvag.), Jo. XXII, 12."

¹⁶ "**Extravagantes Communes**," 1483. Are cited by *name*, *book*, *title*, and *chapter* (frequently the *chapter* comes first): e.g. "cap. 2, Extr. (or Xvag.) Comm. iii, 2."

¹⁷ Died 1559.

¹⁸ Giovanni Paolo Lancelotti (1522-90).

¹⁹ It is cited by *book*, *title*, and *paragraph*.

editions of the Corpus Juris Canonici, although never having received official approval.²⁰ It is a very clear résumé of Canon Law, and its divisions have been broadly followed by all subsequent authors of elementary works on Canon Law. Lancelot had the great misfortune to publish his Institutes just before the Council of Trent: but the decrees of that council have been followed by subsequent editors of his work in their notes and commentaries.

²⁰ Morey's statement that it was published at Rome under Gregory XIII is not authentic, see 8 *Cath. Encycl.*, p. 774.

100-443887-100

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

